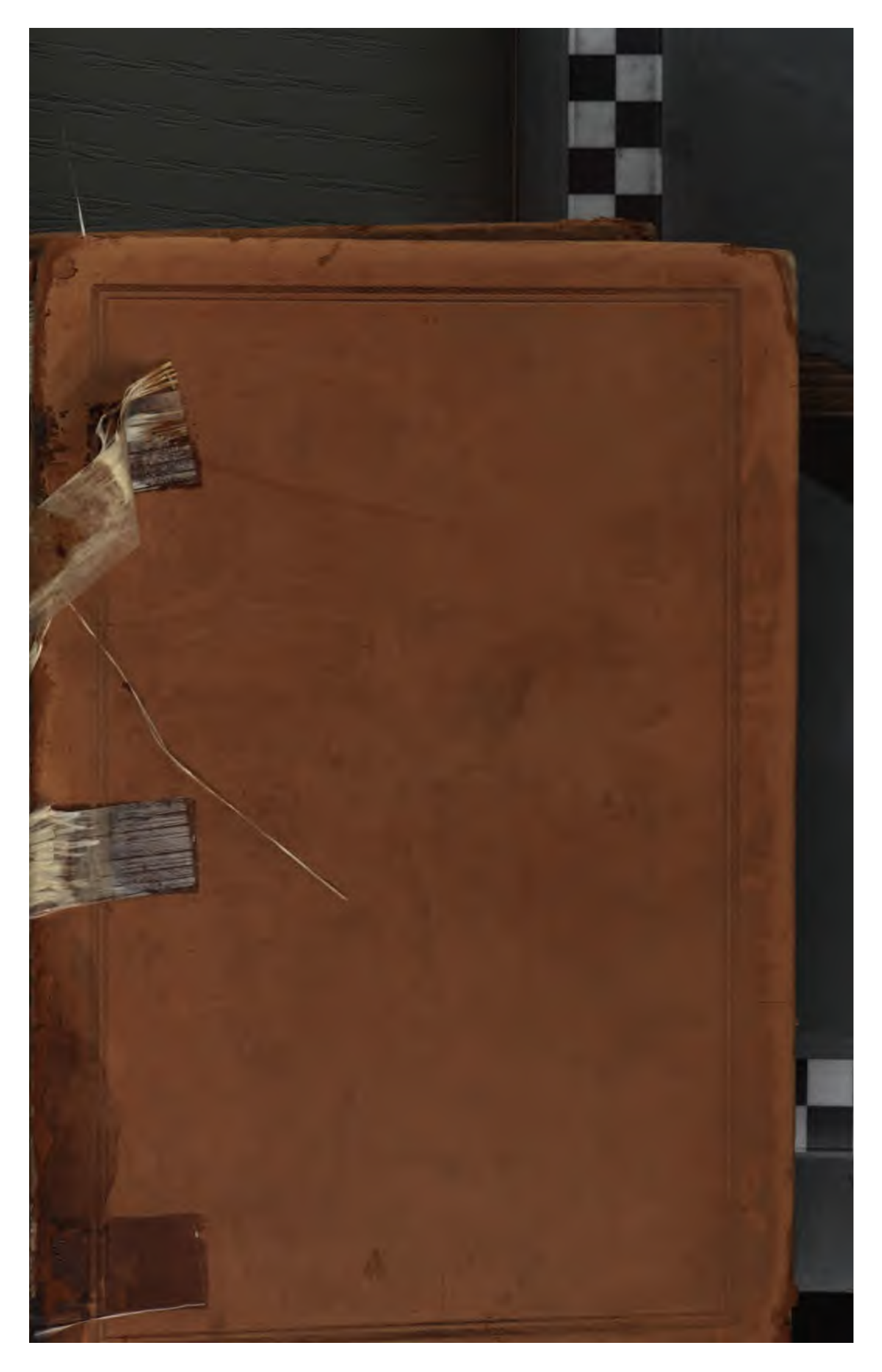

James R Mite
Sen.

LAWS

OF THE

STATE OF DELAWARE,

PASSED AT AN ADJOURNED SESSION

OF THE

GENERAL ASSEMBLY,

COMMENCED AND HELD AT DOVER,

ON TUESDAY, THE NINTH DAY OF JANUARY,

A. D. 1866,

AND OF THE

INDEPENDENCE OF THE UNITED STATES

THE NINETIETH.

VOL. 13.--PART 1.

PUBLISHED BY AUTHORITY.

JAMES KIRK, PRINTER, DOVER, DELAWARE.

1866.

LAWS OF THE STATE OF DELAWARE.

CHAPTER 1.

PUBLICATION OF LAWS.

An Act concerning the Publication of the Laws.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Secretary of State be and he is hereby directed to exclude from the publication of the laws of this State all acts of incorporation, and other acts of a private nature, unless such acts contain a provision directing their publication.

Secretary of State directed to exclude certain acts in the publication of the laws.

SECTION 2. That in the publication of the acts of the present session of the Legislature the Secretary of State shall exclude all acts of incorporation, and acts of a private nature, except acts incorporating railroad companies, towns and banks, and the supplements to said acts.

What acts excluded.

SECTION 3. That the Secretary of State is hereby authorized and directed to demand and receive for the use of the State, on certifying any act of incorporation, the sum of twenty dollars, when the capital stock of such incorporation shall exceed fifty thousand dollars, and ten dollars when the capital stock shall not exceed fifty thousand dollars; and on certifying any other act or resolution of a private nature, he shall demand and receive, for the use of the State, a fee of ten dollars.

Tax on private laws.

SECTION 4. That it shall not be lawful for the Clerks of the two Houses of the Legislature, or either of them, hereafter to give or permit copies of such acts as are referred to in the foregoing sections to be taken, unless the certificate of the Secretary of State is appended thereto.

Clerks not to furnish copies of acts without the certificate of Secretary of State.

Passed at Dover, February 17, 1866.

CONCERNING THE PUBLIC REVENUE.

CHAPTER 2.

NATIONAL BANKS.

An Act in relation to National Banks in this State.

Tax on stock in National Banks.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That every person or body corporate owning or holding any share or shares of stock in any national bank or banking association organized, created or established, or which may be hereafter organized, created or established under the provisions of an act of Congress entitled, "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, or of any supplement or amendment thereto, shall pay to the State Treasurer of this State annually, on the first day of January in each and every year, for the use of the State, a tax of one-half of one per centum on the amount of the share or shares of the capital stock of any such national bank or banking association, owned or held by such person or body corporate.

State Treasurer to make a duplicate list of shareholders

And assess tax.

SECTION 2. *Be it further enacted by the authority aforesaid,* That for the purpose of levying, assessing and collecting the taxes imposed by section one of this act, the State Treasurer shall, on or before the first day of September next after the passage of this act, and on the first day of September in each and every year thereafter, make out a duplicate of the names and residences of all the shareholders, and the number of shares owned or held by each in every national bank or banking association in this State, from the list kept in the offices or places of business of such national banks or banking associations, and shall assess a tax of one-half of one per centum on the amount of the shares owned or held by any person or body corporate in any such national bank or banking association, to be paid by such person or body corporate to the State Treasurer, or any collector by him duly authorized to receive the same, on the first day of January next after such assessment shall have been made.

SECTION 3. *Be it further enacted by the authority aforesaid,* That if the President and Cashier, or either of them, of any national

bank or banking association in this State, organized, created or established, or which may be hereafter organized, created or established under the provisions of the act of Congress aforesaid, or any supplement or amendment thereto, shall fail or neglect to keep a correct list of the names and residences of all the shareholders in the association, and the numbers of shares held by each, in the office where its business is transacted, as required by the act of Congress aforesaid, or shall refuse to permit the State Treasurer to inspect and copy such list during business hours of each day in which business may be legally transacted, it shall be the duty of the State Treasurer to serve notice in writing on the President and Cashier so in default in neglecting to keep such list, or in refusing to permit the State Treasurer to inspect and copy the same, requesting them within ten days from the service of such notice to deliver to him, at the time and place designated in said notice, a correct list of the names and residences of all the shareholders in such national bank or banking association and the number of shares held by each shareholder; and if the President and Cashier of any national bank or banking association, or either of them, upon whom notice as aforesaid has been served, shall refuse or neglect to deliver to the State Treasurer such list at the time and place designated, they shall be guilty of misdemeanor, and upon conviction thereof shall forfeit and pay to the State a fine not less than five hundred dollars not more than one thousand dollars.

Penalty for neglect of President and Cashier to keep said list and refusing to let State Treasurer inspect the same.

SECTION 4. *Be it further enacted by the authority aforesaid,* That if any person or body corporate owning or holding any share or shares of the capital stock of any national bank or banking association in this State shall refuse or neglect to pay to the State Treasurer the tax assessed under the provisions of this act upon the share or shares owned by such person or body corporate, for a period of thirty days after the same shall have become due and payable, it shall be the duty of the State Treasurer and he is hereby authorized and required to proceed to collect the same, and he, and any collector by him appointed as hereinafter provided, shall have all the powers for the collection of taxes imposed by this act as are granted to collectors of county taxes by the provisions of Chapter 12 of the Revised Statutes of this State; and in addition to the remedies granted in said chapter to the collectors of county taxes, the State Treasurer may sue out of the Superior Court, in either of the counties, an attachment in his own name, and attach the dividends of any shareholder so in default in the hands of the Cashier of the bank or banking association in which such shares are held, and may recover in such attachment double the amount of taxes so unpaid and all costs.

In case of refusal or neglect to pay tax—how the same shall be collected.

CONCERNING THE PUBLIC REVENUE.

Collector for each county.

Official bond of State Treasurer.

Collectors to give bond.

Compensation of Collectors.

SECTION 5. *Be it further enacted as aforesaid,* That the State Treasurer may appoint one collector for each of the counties of the State; such appointment shall be in writing, and notice thereof shall be given in one or more newspapers published in the county for which the appointment is made. The official bond of the State Treasurer shall be liable for all money received under the provisions of this act by him or the collector whom he may appoint. The State Treasurer shall require the collector to give bond in such amount and with such security as he may approve, conditioned for the collection of all taxes committed to them and the payment of all taxes by them collected to the State Treasurer; he shall pay to the collector by him appointed two per cent. on the amount of taxes which they may collect, to be deducted from the commissions of the State Treasurer for his services under this act.

Compensation of State Treasurer.

SECTION 6. *Be it further enacted by the authority aforesaid,* That the State Treasurer shall receive for the performance of the duties imposed by this act, three per cent. on the amount of taxes collected.

State banks, after conversion, paying said tax, to be exempt from tax imposed by their charters, &c.

SECTION 7. *Be it further enacted by the authority aforesaid,* That upon the payment in any year of the tax herein provided by the shareholders in any banking association which has been changed or converted from a State bank into such banking association, such State bank so converted shall, for any year such tax has been paid by the shareholders aforesaid, be exempt from the payment of the tax provided for in their act of incorporation and laws of the State applicable to such corporation.

Passed at Dover, February 16, 1866.

CHAPTER 3.

ASSESSORS.

Rev. Code, 24.

An Act to amend Chapter 10 *of the Revised Statutes of the State of Delaware, entitled "Assessors," and for other purposes.*

Section 7 of Chap. 10, Rev. Code

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 7 of Chapter 10 of the Revised Statutes of the State of

CONCERNING THE PUBLIC REVENUE.

Delaware, entitled "Assessors," be and the same is hereby amended by striking out the words "and if of slaves the sex" in lines four and five of said section.

Certain words relating to slaves stricken out.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the said chapter be further amended by striking out all of Section 9 of said chapter, and also by striking out all of Section 12 of the same chapter.

Sections 9 and 12 of said Chapter stricken out.

SECTION 3. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the respective Levy Courts of the several counties of this State, at their first meeting after the passage of this act, to cause to be stricken from the assessment book in the respective counties of this State all assessments of slaves, and to deduct the same from the assessment of such persons as may be found assessed therewith.

The assessment of slaves to be stricken from the assessment books.

SECTION 4. *And be it further enacted by the authority aforesaid,* That in all editions of the Laws of this State hereafter to be published, the said Chapter 10 shall be published as hereby amended.

Future publications.

Passed at Dover, February 8, 1866.

CHAPTER 4.

STATE'S STOCK IN THE FARMERS' BANK.

An Act in relation to this State's Stock in the Farmers' Bank.

WHEREAS this State is the owner of [a] majority of the stock in the Farmers' Bank, and has, by an act passed at the present session of the General Assembly, given its consent that said bank shall be converted into a national bank;

Preamble.

AND WHEREAS by the charter of the aforesaid Farmers' Bank the State stock is not voted at elections of directors, but she has the right secured to her to appoint three of the nine directors who transact the business of the principal bank, at Dover, and also three of each of the nine who transact the business of each of the branches, thus giving the State twelve of the thirty-six directors of the bank, or one-third of the whole;

AND WHEREAS by the provisions of the eleventh section of the national banking law, being the act of Congress approved on the

third day of June, A. D. 1864, entitled "An act to provide a uniform currency by a pledge of United States bonds, and to provide for the redemption thereof," each stockholder in a bank organized under its provisions is entitled to one vote for each share of stock held by him, which, upon conversion of the Farmers' Bank into a national bank, would give the Legislature the power to control the affairs of the new bank or banks, which power, in times of high political excitement, might be improperly exercised, and its existence would at all times be dangerous;

AND WHEREAS it is deemed best now to provide against the evil aforesaid; Now, therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in consideration of the sum of one hundred dollars, to be paid by the aforesaid national bank or banks to the State Treasurer for the use of the State, within thirty days after their organization under the act of Congress mentioned in the preamble hereof, and a like sum to be paid to him annually thereafter by said bank or banks for the use aforesaid; and also that the stockholders of the said bank or banks will elect as part of the board of directtors thereof such persons, being qualified to serve as directors under the provisions of the act of Congress aforesaid, not exceeding three for each bank, as the Legislature shall designate by joint resolution passed at each biennial session, and will continue them in office until a new designation shall be made by the Legislature in manner aforesaid, the State will waive and will not exercise her right under the national banking law aforesaid to vote her stock in the election of directors of said bank or banks.

Of the waiver of right to vote State stock.

SECTION 2. *And be it further enacted by the authority aforesaid,* That so long as the provisions of the aforesaid section shall be faithfully observed by the stockholders aforesaid this act shall have force and no longer; and furthermore, all deposits now authorized by law to be made in the aforesaid Farmers' Bank shall be made in the new bank or banks aforesaid, unless the General Assembly shall, upon due consideration and hearing of the said bank or banks, think fit otherwise to order.

Act how long to have force.

Deposits.

SECTION 3. *And be it further enacted by the authority aforesaid,* That this act shall be accepted by the stockholders of the aforesaid new bank or banks within thirty days after the time of the conversion aforesaid or it shall be void; such acceptance shall be by resolution, and the fact of the adoption thereof shall be shown by certificate under the seal of the said bank or banks. The said certificate shall be delivered to the Governor and be filed by him in the office of [the] Secretary of State, who shall report the fact to the General Assembly.

Acceptance of act.

Passed at Dover, February 13, 1866.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 5.

SALARIES.

An Act to increase the Salaries of the Chancellor and Judges of this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passage of this act the annual salary of the Chancellor, and Chief Justice also, shall be two thousand dollars, and of each of the Associate Judges seventeen hundred dollars, with an addition of two hundred dollars per annum to the Associate for Kent county, for reporting the judicial decisions. The said salaries shall commence with the present year, and be paid as heretofore: *Provided however,* That no Judge shall be allowed the benefit of this increase whilst he has any connection with a corporation, whether as stockholder in any right or as an officer.

Salaries of Chancellor and Chief Justice $2,000. Associates $1,700. Associate for Kent County additional $200. When to commence. Proviso.

SECTION 2. *And be it further enacted,* That hereafter it shall not be lawful for any Judge to accept from any such corporation, for himself or his family, any favor or gratuity except where the same is extended to all other citizens.

Judge not to accept favor &c., from corporations

Passed at Dover, February 7, 1866.

CHAPTER 6.

SALARIES.

An Act to amend Chapter 25 of the Revised Code, in relation to salaries of certain public officers.

Rev. Code, 77.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That Chapter 25 of the Revised Code of the State of Delaware be amended by striking out the word "four" in the fourth line of section one, and insert the word "five" in the place thereof; strike out the words "three hundred and fifty" in

Secretary of State $500. Attorney General.

the second line of Section 3, and insert the word "five"* in the place thereof; strike out the word "five" in 3d line of Section 4, and insert the word "six" in the place thereof; and strike out the word "five" in the first line of Section 5, and insert the word "six" in the place thereof.

State Treasurer $600.

Auditor $600

Future publications.

SECTION 2. That in all editions of the laws hereafter to be published, the said chapter and sections shall be published as hereby amended.

Passed at Dover, February 14, 1866.

* So in original and enrolled bill.

CHAPTER 7.

CHANCELLOR AD LITEM.

An Act to provide for the appointment of a Chancellor ad litem in certain cases.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That where any cause is now, or shall hereafter be pending in the Court of Chancery, in which the Chancellor has been counsel, the Governor, upon a certificate of that fact being sent to him by the Chancellor, shall have power to appoint, either from the bench or the bar, as to him shall seem proper, a Chancellor *ad litem* to hear and determine the said cause; and the person so appointed shall have, for the purpose of such hearing and decision, all the jurisdiction and authority which by the constitution and laws of this State are vested in the Chancellor, and the decree made by him shall, in all respects, be of the like nature as other decrees, and be enforced by the process of the Court of Chancery, and may be appealed, affirmed or reversed in the Court of Errors and Appeals.

Appointment of Chancellor *ad litem* authorized when Chancellor has been counsel in cause.

Authority of.

Nature of Decree, how enforced.

Appeal.

SECTION 2. *And be it further enacted,* That a person appointed Chancellor *ad litem* and exercising the duties of his appointment, shall be entitled to a reasonable compensation for his services. Before he enters upon the duties of his appointment he shall be duly sworn or affirmed as other judicial officers.

Compensation.

Sworn.

Passed at Dover, February 7, 1866.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 8.

NOTARIES PUBLIC.

11 Volume, 230.
SEC. 1. Chapter amended.

SEC. 1. Notaries for State and National Banks authorized.
Proviso.

An Act to amend an act entitled "An Act to amend the Thirty-sixth Chapter of the Revised Code." 11 Vol. 230.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the said act, entitled "An Act to amend the Thirty-sixth Chapter of the Revised Code," passed at Dover, on the sixteenth of February, A. D. 1855, be and the same is hereby amended by striking out the words, "and one for each bank in the State, now or hereafter to be chartered," in the eleventh and twelfth lines of Section 1, and inserting in lieu thereof the words following: "and one for each bank and banking association in this State, whether State or National, now or hereafter to be chartered or organized under the laws of this State, or of the United States:" *Provided however,* That the privileges and duties of the Notaries Public who may hereafter be appointed for the several banks within this State, whether State or National, shall be confined to the business of their respective banks and none other whatever.

Chap. 36. amended.

Notaries for State and National Banks authorized.

Proviso.

Passed at Dover, January 24, 1866.

CHAPTER 9.

NOTARIES PUBLIC.

SEC. 1. Additional Notaries Public authorized. | SEC. 1. Three for each of the counties.

An Act authorizing the Governor of this State to appoint additional Notaries Public.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Governor of this State be and he is hereby authorized to appoint not exceeding three Notaries Public for each of the counties in this State, in addition to the number now authorized by law to be appointed.

Additional Notaries authorized.

Passed at Dover, February 16, 1866.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 10.

OF CONSTABLES.

Rev. Code, 95.

An Act to amend Chapter 34 *of the Revised Statutes, concerning Constables.*

Governor authorized to appoint an additional constable for City of Wilmington.

His official term.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Governor be and he is hereby authorized and required to appoint an additional Constable in New Castle county, who shall be appointed for and reside in the City of Wilmington, and the office of Constable hereby created shall continue for the term of three years, and the appointment thereto shall be made and vacancies filled by the Governor for and during the said term of three years.

Penalty for neglect or refusal to execute process.

SECTION 2. *And be it further enacted,* That if any Constable appointed by authority of this act, or that has been or shall hereafter be appointed by the Levy Court of New Castle county, shall refuse or neglect to execute any process issued by a Justice of the Peace residing in the City of Wilmington, and directed to him, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office; and it shall be the duty of any Justice of the Peace that he shall have so refused, or whose process he may have neglected to execute, to present any such refusal or neglect to the Grand Jury, that the same may be inquired into.

Inconsistent acts repealed.

SECTION 3. *And be it further enacted,* That all laws and parts of laws contrary to the provisions of this act be and the same are hereby repealed, made null and void.

Passed at Dover, February 1, 1866.

CHAPTER 11.

CONSTABLE.

An Act to authorize the Levy Court of Kent County to continue in office for a period of more than three years, a Constable in Dover Hundred, to reside in the town of Dover.

Levy Court of Kent Co.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for the Levy Court of Kent County,

upon the application of the leading business men in and adjacent to the town of Dover, to reappoint and continue in office for a term of more than three years, any constable who has performed his official duties in a satisfactory manner to them, and who shall reside in said town of Dover.

may reappoint for term of more than three years constable in town of Dover.

Passed at Dover, February 6, 1866.

CHAPTER 12.

SEAL OF OFFICE.

12 Vol. 217.
SEC. 1. Sec. 1 of Chap. 193, 12 Vol., amended.

SEC. 1. Another person to procure seal.

An Act to amend an act entitled, "An Act to authorize the Register of Chancery in and for New Castle County to procure a new seal of office," passed at Dover, January 24, 1862.

12 Vol. 217.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the name of James Duncan, in the third line of Section 1 of an act to authorize the Register of Chancery in and for New Castle county to procure a new seal of office, passed at Dover, January 24, 1862, is hereby stricken out, and the name of Samuel Guthrie inserted in lieu thereof.

Sec. 1, Chap. 193, of Vol. 12 Del. laws amended.

Another person to procure seal.

Passed at Dover, February 14, 1866.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 13.

SEAL OF OFFICE.

12 Vol., 218.
SEC. 1. Section 1 of Chapter 194, 12 Volume, amended.
SEC. 1. Another person authorized to procure seal.

An Act to amend an act entitled "An Act to authorize the Clerk of the Orphans' Court in and for New Castle County to procure a new seal of office," passed at Dover, January 24, 1862.

12 Vol. 218.

Sec. 1, Chap. 194 of 12 Vol. Del. laws amended.

Another person authorized to procure seal.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the name of James Duncan, in the third line of Section 1 of an act to authorize the Clerk of the Orphans' Court in and for New Castle county to procure a new seal of office, passed at Dover, January 24, 1862, is hereby stricken out, and the name of Samuel Guthrie inserted in lieu thereof.

Passed at Dover, February 14, 1866.

CHAPTER 14.

OATHS.

SEC. 1. Clerks of Circuit and District Courts of U. S. for District of Delaware authorized to administer oaths.
SEC. 1. To take acknowledgment of execution of instruments of writing.

An Act authorizing the Clerks of the United States Courts for the District of Delaware to administer oaths and affirmations and take acknowledgment of writings.

Clerks of Circuit and District Courts of U. S. for Dist. of Delaware authorized to administer oaths, &c.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Clerk of the Circuit Court of the United States, and the Clerk of the District Court of the United States, for the District of Delaware, shall be and they are hereby authorized to administer oaths and affirmations and to take acknowledgment of the execution of instruments of writing in this State which are to be used in their respective courts or in any District or Circuit Court of the United States.

Passed at Dover, February 1, 1866.

IN RELATION TO RECORDS AND FREE SCHOOLS.

CHAPTER 15.

COPY OF INDICES AUTHORIZED.

12 Vol. 436.
Preamble.
SEC. 1. Section 1 amended.
SEC. 2. Section 2 amended.

An Act to amend an act entitled "An Act to amend an act entitled, 'An Act authorizing the Prothonotary of Kent County to copy Indices.'" 12 Vol. 436.

WHEREAS by an act of the General Assembly of the State of Delaware, passed at Dover, February 5th, 1864, certain duties were imposed upon John O. Slay, which duties, before he was able to perform, he moved from this State into the State of Maryland, and is not likely to find time to complete said duties, and is desirous of being relieved from the same, and requests that the General Assembly will appoint some other person in his stead; Therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 1 of the act entitled "An Act to amend an act entitled 'An act authorizing the Prothonotary of Kent County to copy indices," passed at Dover, February 5th 1864, be and the same is hereby amended by striking out the words "John O.Slay," in the last line of said section, and inserting in lieu thereof the words "Henry C. Collison." Section 1 amended. How.

SECTION 2. *And be it further enacted,* That Section 2 of said act, passed at Dover, February 5th, 1864, be and the same is hereby amended in line four of said section by striking out the words "sixty-four," and inserting in lieu thereof the words "sixty-six." Section 2 amended.

Passed at Dover, February 2, 1866.

CHAPTER 16.

OF THE COLLECTION OF BALANCES DUE FREE SCHOOLS.

SEC. 1. Action of debt may be brought against School Committee or survivors for money due District.
SEC. 1. Before whom.
Retroactive.

An Act to provide for the Collection of Balances due the Free Schools by the School Committee.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That where it appears upon settlement by the school committee of a

district that there is due from said committee to the district for money actually received by said committee any sum whatever, an action of debt may be brought in the name of the district, or against the said committee, or the survivor or survivors of them, in their individual names, for recovery of the same, as also for the penalty now provided by law, and judgment thereon shall be given as in other cases, and may be executed accordingly; such action, no matter what the sum demanded be, may be brought before a Justice of the Peace, and shall be proceeded in as other actions within their jurisdiction are. This act shall have a retroactive effect so far as the remedy hereby provided is concerned.

Action of debt may be brought against School Committee or survivors for money due District.

Before whom.

Retroactive.

Passed at Dover, February 9, 1866.

CHAPTER 17.

CONCERNING ALMSHOUSES AND THE POOR.

Revised Code, 130.
SEC. 1. Section 5, Chapter 48 amended.

SEC. 1. The day for the quarterly meeting of the Trustees of the Poor of Kent County changed.

Rev. Code, 130.

An Act to amend Chapter 48 *of the Revised Statutes of this State.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 5 of Chapter 48 of the Revised Statutes of this State be and the same is hereby amended by striking out, in the third line of said section, the word "Monday," and inserting in lieu thereof the word "Wednesday," and that in all future publications of the laws of this State said section shall be published as thus amended.

Sec. 5, Chap. 48 of Rev. Code amended.

Day for the quarterly meeting of the Trustees of the Poor of Kent County changed.

Passed at Dover, January 30, 1866.

CONCERNING THE POOR.

CHAPTER 18.

DEAF, DUMB AND BLIND.

11 Volume, 118.
SEC. 1. Section 1 of the act amended.

SEC. 1. The word "persons" inserted in place of "children."

An Act to amend an act entitled "An Act to promote the Education of the Deaf and Dumb and the Blind," passed at Dover, March 4, 1853.

11 Vol. 118.

Sec. 1 of said act amended. The word "persons" inserted in place of "children"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That section one of said act be and the same is hereby amended by striking out the word "children," in the fourth line, and insert the word "*persons*" in the place thereof.

Passed at Dover, February 8, 1866.

CHAPTER 19.

DEAF, DUMB AND BLIND.

11 Volume, 118.
SEC. 1. Two additional indigent pupils may be sent from New Castle County.

SEC. 1. Of the costs of maintaining said pupils. Proviso.

A Supplement to an act entitled "An act to promote the Education of the Deaf and Dumb and the Blind."

11 Vol. 118.

Two additional Indigent pupils may be sent from New Castle Co.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That two indigent pupils, in addition to the number now allowed by law, from New Castle county, may be recommended for admission into the Pennsylvania Institute for the instruction of the deaf and dumb, and the Governor shall cause the persons so recommended to be admitted in like manner as pupils are now admitted into the said institution by the act to which this is a supplement; and that the cost of maintaining the said additional pupils shall be charged upon the income of the School Fund distributable to the said county: *Provided,* That not more than five indigent pupils from the said county shall be at the same time in the said institution, and that not more than twenty-three hundred dollars shall be paid to the said institution in any one year.

Of the cost of maintaining said pupils.

Proviso.

Passed at Dover, February 15, 1866.

district that there is due from said committee to the district for money actually received by said committee any sum whatever, an action of debt may be brought in the name of the district, or against the said committee, or the survivor or survivors of them, in their individual names, for recovery of the same, as also for the penalty now provided by law, and judgment thereon shall be given as in other cases, and may be executed accordingly; such action, no matter what the sum demanded be, may be brought before a Justice of the Peace, and shall be proceeded in as other actions within their jurisdiction are. This act shall have a retroactive effect so far as the remedy hereby provided is concerned.

Action of debt may be brought against School Committee or survivors for money due District.

Before whom.

Retroactive.

Passed at Dover, February 9, 1866.

CHAPTER 17.

CONCERNING ALMSHOUSES AND THE POOR.

Revised Code, 130.
SEC. 1. Section 5, Chapter 48 amended.

SEC. 1. The day for the quarterly meeting of the Trustees of the Poor of Kent County changed.

Rev. Code, 130.

An Act to amend Chapter 48 *of the Revised Statutes of this State.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 5 of Chapter 48 of the Revised Statutes of this State be and the same is hereby amended by striking out, in the third line of said section, the word "Monday," and inserting in lieu thereof the word "Wednesday," and that in all future publications of the laws of this State said section shall be published as thus amended.

Sec. 5, Chap. 48 of Rev. Code amended.

Day for the quarterly meeting of the Trustees of the Poor of Kent County changed.

Passed at Dover, January 30, 1866.

CONCERNING THE POOR.

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11 Vol. 118.

Sec. 1 of said act amended. The word "persons" inserted in place of "children"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That section one of said act be and the same is hereby amended by striking out the word "children," in the fourth line, and insert the word "*persons*" in the place thereof.

Passed at Dover, February 8, 1866.

CHAPTER 19.

DEAF, DUMB AND BLIND.

11 Volume, 118.
SEC. 1. Two additional indigent pupils may be sent from New Castle County.

SEC. 1. Of the costs of maintaining said pupils. Proviso.

A Supplement to an act entitled "An act to promote the Education of the Deaf and Dumb and the Blind."

11 Vol. 118.

Two additional Indigent pupils may be sent from New Castle Co.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That two indigent pupils, in addition to the number now allowed by law, from New Castle county, may be recommended for admission into the Pennsylvania Institute for the instruction of the deaf and dumb, and the Governor shall cause the persons so recommended to be admitted in like manner as pupils are now admitted into the said institution by the act to which this is a supplement; and that the cost of maintaining the said additional pupils shall be charged upon the income of the School Fund distributable to the said county: *Provided,* That not more than five indigent pupils from the said county shall be at the same time in the said institution, and that not more than twenty-three hundred dollars shall be paid to the said institution in any one year.

Of the cost of maintaining said pupils.

Proviso.

Passed at Dover. February 15, 1866.

CONCERNING THE POOR.

CHAPTER 20.

THE FEMALE SOCIETY OF WILMINGTON.

11 Vol. 165.

A Supplement to the act entitled, "An Act to incorporate the Female Society of Wilmington, for the relief and Employment of the Poor," passed at Dover, January 30, 1855.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring,)

Name of corporation changed.

SECTION 1. That the name and style of the corporation created by the act to which this is a supplement, be and the same is hereby changed from that of "The Female Society of Wilmington for the relief and Employment of the Poor," to that of "Home for Aged Women," by which last mentioned name the said corporation shall continue to have succession for the purposes named in the act aforesaid, and with all the powers and franchises of a corporation aggregate.

Members of new corporation.

SECTION 2. That the present members of the said "The Female Society of Wilmington, for the Relief and Employment of the Poor" shall be members of the "Home for Aged Women," and that all the immunities and franchises and all the rights, powers, properties, effects, and credits belonging to the corporation created by the act to which this is a supplement, shall be and are hereby vested in the "Home for Aged Women."

Misnomer.

SECTION 3. That no misnomer of the corporation, created by the aforesaid act, in any deed, will, testament, gift, grant, demise, contract or other instrument, shall avoid or vitiate the same; *Provided* there be sufficient to ascertain the intent of the parties.

Sec. 1 of the original act amended.

SECTION 4. That the last line of Section 1 of the aforesaid act be and the same is hereby amended by striking out the words "City of Wilmington," and inserting in lieu thereof the words "County of New Castle;" and all the property of this corporation, held at this time, or to be hereafter acquired, shall be exempt from taxation and from water rent.

Passed at Dover, January 31, 1866.

OF THE GENERAL POLICE.

CHAPTER 21.

HOUSE OF REFUGE.

12 Volume, 600.
SEC. 1. Section 14 of Chapter 533, 12 Volume, amended.
SEC. 1. Managers authorized to locate buildings in Wilmington or elsewhere.

An Act to amend an act entitled, "An act to incorporate the House of Refuge of New Castle County." 12 Vol. 600.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Sec. 14 of Chap. 533, 12 Vol. Laws of Del. amended. Managers authorized to locate buildings in Wilmington or elsewhere

SECTION 1. That Section 4 of the act entitled, An act to incorporate the House of Refuge of New Castle County be, and the same is hereby amended by adding after the word "Wilmington," in the fourth line of said section, the words, "or other place as the said Board of Managers shall determine."

Passed at Dover, February 13, 1866.

CHAPTER 22.

SALE OF INTOXICATING LIQUORS, &c.

12 Volume, 172.
SEC. 1. Section 9, Chapter 108 of 12 Volume amended.
Penalty increased on ale-house keepers selling any but malt liquors.
SEC. 1. Section 11 of said Chapter amended.
Penalty increased for selling without license.
2. Publication in newspapers.

An Act to amend an act entitled "An Act regulating the sale of Intoxicating Liquors, &c.," passed at Dover, March 6, 1861. 12 Vol. 172.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 9 of said act be amended as follows: Strike out all after the word "of," in line 10 of said section, and insert the following: "fifty dollars, besides costs, and in default of payment thereof shall be imprisoned not less than one nor more than six months; and for the second offence shall forfeit and pay a fine of seventy-five dollars, besides costs, and in default of payment shall be imprisoned not less than three nor more than twelve months; and for the third offence shall forfeit and pay a fine of one hundred dollars, besides costs, and in default of payment thereof shall be imprisoned not less than six or more than twelve months,

Sec. 9, Chap. 108 of 12 Vol. Del. Laws, amended. Penalty increased on ale-house keepers selling any but malt liquors.

and such third conviction shall also *ipso facto* work a forfeiture of his or her license, and he or she shall not be re-licensed for the time of five years from the time of such third conviction. Also amend Section 11 of said bill by striking out all after the word "of," in line 14 of said section, and insert the following: "one hundred dollars, besides costs, and in default of payment thereof shall be imprisoned not less than six nor more than twelve months, and for a second or any subsequent offence shall forfeit and pay a fine of two hundred dollars, besides costs, and in default of payment thereof shall be imprisoned not less than nine nor more than twelve months."

Sec. 11 of said Chap. amended.

Penalty increased for selling without license.

SECTION 2. *And be it further enacted by the authority aforesaid,* That Sections 9 and 11 of the above-named bill, as amended, be published in all the papers of the State for three months, by the authority of the Secretary of State.

Publication in newspapers.

Passed at Dover, February 13, 1866.

CHAPTER 23.

ESTRAYS.

An Act to prohibit Cattle and Horses from running at large within certain limits within Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the date of the passage of this act no cattle or horses shall be allowed to run at large within the said county within a limit of two miles in every direction from the bridge over the Mispillion Creek, at the foot of Walnut street, in the town of Milford, in said county; and that cattle or horses so running at large within the said limits may be taken up by any white person who shall forthwith give notice to the owner or owners thereof; and if the owner or owners thereof shall be to

Cattle and horses where not to run at large.

Seizure.

Notice to owner.

OF THE GENERAL POLICE.

him unknown, then notice shall be given to the Commissioners of the town of Milford, or to some one or more of them, and the said cattle or horses shall in either case be delivered to the person whom the said commissioners may appoint to take charge of them.

Notice to Commissioners of Milford.

SECTION 2. *And be it enacted,* That it shall be the duty of the Commissioners of the said town of Milford to provide some suitable place for the safe-keeping of such cattle or horses as may be found running at large within the limits hereinbefore mentioned, and to appoint some suitable person to take charge of such place of impounding, whose duty it shall be to take proper care of all such cattle or horses as may be entrusted to him, and who shall be responsible to the said commissioners for their safe-keeping, who shall pay him out of the funds belonging to the said town such compensation as may be agreed on between them.

Impounding.

SECTION 3. *And be it enacted,* That if the owner or owners of such cattle or horses so found and impounded shall, after said notice given, refuse or neglect to pay the fines and costs hereinafter imposed, then it shall be the duty of the clerk of the said commissioners, or the person having charge of the said place of impounding, to advertise the said cattle or horses for sale, giving five days notice from the time of said impounding to the day of sale, but if the person or persons owning the same shall, before the day of sale, pay all the fine and costs hereinafter provided, then the said cattle or horses shall be delivered up without sale.

Advertisement of sale.

SECTION 4. *And be it enacted,* That when the cattle or horses so found running at large and impounded shall belong to or be in the custody or use of any person or persons residing within the said limits, then the fine for the first offence shall be one dollar; for the second offence, one dollar and fifty cents: for the third offence, two dollars; and for the fourth offence, three dollars; and also for the said fourth offence, the cattle or horses so impounded shall be sold at public sale, after five days notice from the day of impounding, by the keeper of said place of impounding or by the clerk of the said commissioners, and after deducting all expenses of impounding, keeping and selling the said cattle or horses, the remainder of the amount for which the same shall sell shall be paid over to the owner or owners thereof.

Of the fine.

SECTION 5. *And be it enacted,* That when the cattle or horses so found running at large and impounded shall belong to or be in the custody or use of any person or persons residing outside of the limits hereinbefore named, then the fine for each and every of the cattle or horses so running at large and impounded, shall be one dollar for each offence.

Of the fine on persons not residing within said limits.

SECTION 6. *And be it enacted,* That the Commissioners of the said town of Milford, for the time being, are hereby authorized

Commissioners of Milford to impose fine.

to impose the fines hereinbefore mentioned, upon proof being made before them that the provisions of this act have been violated, and also to tax such costs for impounding, keeping and selling such cattle or horses as may be impounded and sold as in their judgment may seem proper and right.

Fee of $1.00 to person taking up estray.

SECTION 7. *And be it enacted,* That the fee of one dollar for each and every of the cattle or horses impounded shall be paid by the said commissioners to the person or persons who shall take them up and deliver them to the keeper of the place of impounding.

Penalty for forcibly taking estrays impounded.

SECTION 8. *And be it enacted,* That any person or persons who shall wilfully, or forcibly, or unlawfully take from such place of impounding cattle or horses therein placed, shall, upon complaint by the person keeping said place of impounding, or by one of the commissioners of the said town, before any Justice of the Peace in and for Kent county, be fined the sum of ten dollars. half to be paid to the person making complaint, and the other half for the benefit of the said town of Milford, to be collected as all other fines and costs imposed by Justices of the Peace.

Pound master, how appointed.

His compensation.

SECTION 9. *And be it further enacted,* That it shall be the duty for the aforesaid Town Commissioners of the town of Milford to appoint some person whose duty it shall be to impound all cattle or horses which they may see running at large in the before-named limits, and the said person, so impounding, shall be entitled to one dollar for each animal so impounded, and shall be paid by the aforesaid town commissioners.

Inconsistent acts repealed

SECTION 10. *And be it enacted,* That all acts or parts of acts inconsistent with this act are hereby repealed, and this shall be deemed and taken to be a public act.

Passed at Dover, January 26, 1866.

CHAPTER 24.

ESTRAYS.

An Act to prevent Horses, Mules and Colts from running at large within the town of Lewes, in Sussex County.

Horses, &c.,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the owner of any horse, mare, gelding, colt, or mule, who shall

OF THE GENERAL POLICE.

suffer the same to be at large out of such owners or keepers inclosed grounds, within the limits of the town of Lewes, in Sussex County, shall forfeit and pay to the State, one-half for the use of the town of Lewes, and the other half for the use of the informer or person impounding any such horse, mare, gelding, colt, or mule, the sum of five dollars, to be recovered with costs of suit before any Justice of the Peace for said county.

not to run at large in Lewes.

Penalty.

SECTION 2. *And be it further enacted by the authority aforesaid,* That it shall be the duty of any and every Constable resident in the said Town of Lewes, and of any and every officer of Police of the said town, upon information coming to their knowledge, either by personal observation or otherwise, of any violation of the provisions of the preceeding section, to cause said animal or animals of the kind above described to be forthwith impounded; notice of such impounding shall be given to the owner or owners thereof in writing, if known, and if not known by five notices posted in five of the most public places in said town, describing the animal by general description, and the owner shall in addition to the fine imposed by the first section of this act, pay to the officer impounding the same the sum of one dollar and all costs which may or has accrued for keeping the same.

Impounding

Notice.

SECTION 3. *And be it further enacted by the authority aforesaid,* That if the owner or owners of any such stock so impounded, as provided by Section 2 of this act, do not before the expiration of five days from the time of the impounding of any stock in conformity with this act, come forward, prove their property and pay the person so impounding the said sum of one dollar and all costs, the officer shall advertise the property for sale by giving public notice thereof for the space of ten days, posted three in the town of Lewes, and three others in Lewes and Rehoboth hundred. The sale shall be by public auction, and the money arising from the sale thereof, after deducting all costs and fees, shall be paid over to the owner of such stock so sold, and if the person to whom the same belongs shall refuse to accept the same, the officer having it in charge may deposit the same in the Farmers' Bank of the State of Delaware, at Georgetown, or, when changed, the National Bank at Georgetown, or by whatever name it may be called, to the credit of the person entitled to the same, and such deposit shall discharge and acquit the officer from all liability to that extent.

Of sale.

Passed at Dover, January 30, 1866.

OF THE GENERAL POLICE.

CHAPTER 25.

ESTRAYS.

An Act to restrict certain animals from running at large in Brandywine Hundred.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Certain persons not to suffer animals of the cow kind to run at large.

SECTION 1. That no resident of Brandywine hundred, holding actual possession, in fee, by lease, or otherwise, of five acres or more of land in or near said hundred, and no member of a family the head of which shall hold land as aforesaid, shall suffer any animal of the cow kind, owned or held by such resident, to pasture or run at large upon the public roads of said hundred, and no non-resident of said hundred shall suffer any animal of the cow kind to pasture or run at large on the public roads of said hundred.

Horses not to run at large.

SECTION 2. It shall not be lawful for any animal of the horse kind to pasture or run at large on the public roads of Brandywine hundred.

What persons can suffer one cow to run at large.

SECTION 3. That no other resident of said Brandywine hundred, or but one member of the family of such resident, shall suffer more than one animal of the cow kind owned or held by such resident to pasture or run at large upon the public roads of said hundred.

After notice no person to suffer such animals to run at large.

SECTION 4. That no person shall suffer any animal of the cow kind owned or held by such person to pasture or run at large on the roads of said hundred, after notice in writing, signed by three or more landholders of the school district wherein said owner or holder resides, shall have been served on said owner either personally or by leaving the same at the residence of the party, to the effect that such animal is breachy and unfit to be at large.

Penalty.

SECTION 5. Every person wilfully suffering animals to run at large contrary to the provisions of either of the foregoing sections of this act, shall be liable to a penalty of one dollar per head for each and every day such animal or animals do so run at large, to be recovered by suit, before any Justice of the Peace in New Castle county, made by any party interested, one-half of said penalty to be paid to the prosecutor and the other half to the Road Commissioners of the hundred, and the owner or holder of such animal or animals running at large contrary to the provi-

sions aforesaid, shall also be held liable for all damages committed by said animals, to be recovered in like manner for the benefit of the damaged party: *Provided* said penalty or damages be sued for within twenty days after each transgression or trespass. Proviso.

SECTION 6. Nothing in this act shall be construed to interfere with or prevent parties from proceeding with such animals as provided in the laws concerning strays. Act how constructed.

SECTION 7. That the provisions of this act shall apply to "Vandever Avenue" and the "Marsh Road," roads belonging to Cherry Island Marsh Company. Act to apply to certain roads.

Passed at Dover, January 31, 1866.

CHAPTER 26.

OF JOINT ESTATES AND PARTITION.

An Act to amend Chapter 86 of the Revised Code, and for other purposes. Rev. Code, 286.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following be added as an amendment to Section 14 of Chapter 86 of the Revised Code, viz: Addition to Sec. 14 of Chapter 86, Rev. Code.

Provided, That in case of division of such proceeds, the Chancellor shall have discretionary power, if in his opinion no lien will be rendered insecure thereby, to order the same or a part thereof to be paid over to the party entitled. Any practice in the Court of Chancery corresponding with this amendment is hereby approved and made valid. Proceeds, how to be paid.

SECTION 2. *And be it further enacted,* That the aforesaid chapter shall hereafter be read and construed as hereby amended, and in any edition of the laws hereafter to be published shall be printed at the end of the section aforesaid. Chapter how construed. Publication.

Passed at Dover, February 6, 1866.

OF TITLES TO REAL PROPERTY.

CHAPTER 27.

PARTITION OF INTESTATE LANDS.

An Act to authorize proceedings for Partition of Intestate Lands, to be begun in vacation.

Filing of petitions for partition.

To whom presented.

Of the order and Freeholders.

Order when returnable.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That petitions for partition of intestate real estate, or to lay off dower, and for partition of the residue, may be filed in vacation as well as in Term time, and when filed in vacation they may be presented to the Chancellor or to the Judge of the Orphans' Court resident in the county where the lands lie; who shall grant an order for, and appoint the Freeholders to make such partition, or to assign dower and make partition of the residue; and thereupon an order for partition, or for the assignment of dower and partition of the residue, shall be issued returnable to the next term of the court, and like proceedings shall be had therein as in other cases.

Passed at Dover, February 17, 1866.

CHAPTER 28.

OF CONVEYANCES.

Rev. Code, 268.

An Act to amend Chapter 83 of the Revised Statutes of the State of Delaware.

Sec. 10 Chap. 83 Rev. Code amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 83 of the Revised Statutes be and the same is hereby amended by inserting in the fourth line of Section 10, after the word "State," as follows: "before any Consul General, Consul or commercial agent of the United States, duly appointed in any foreign country at the places of their respective official residence;" also by inserting in the eighth line of the said section, after the word "his," the word "office."

Passed at Dover, January 30, 1866.

OF TITLES TO REAL PROPERTY.

CHAPTER 29.

DEEDS.

An Act to render valid the acknowledgment of certain Deeds.

WHEREAS there are many conveyances of lands within this State, of long standing, executed and delivered *bona fide* by parties resident in other States, who were therefore unacquainted with the requirements of the Statutes of this State in relation to the acknowledgment of deeds, which have not been acknowledged in accordance with the requirements of the laws of this State in force at the time of their execution, and under which the parties grantee, named in the said conveyances, have entered into and held quiet and uninterrupted possession of the premises so conveyed for a long number of years; AND WHEREAS such deeds cannot be admitted to record because of such defect; Therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for the Recorders of Deeds in and for the several counties of this State to receive and admit to record any deed, duly signed and sealed by the parties therein named as grantors, which was executed prior to the year A. D. 1825, though the acknowledgment of any such deed, or private examination of any married woman being party thereto, may not have been taken and certified in conformity with the laws of this State existing at the time of the execution of any such deed, and when any such deed shall be so recorded, the record, or a certified copy thereof, shall be competent evidence; and all and every such deed executed as aforesaid, when recorded, shall be as good and effectual in law as if the same had been acknowledged and the acknowledgment certified in accordance with the law existing at the time of their execution. Certain deeds executed prior to 1825 may be recorded.

SECTION 2. *And be it further enacted by the authority aforesaid,* That no person, being grantor in any conveyance mentioned in the first section of this act, or claiming by, through, from, or under any such grantor, shall make an entry into or have or maintain any action for, or make any claim to or in any lands, tenements or hereditaments mentioned and contained in any conveyance defective as set forth in the first section of this act, and executed prior to the said year A. D. 1825, and of which the parties named in such conveyances as grantees, and their assigns, have held quiet, uninterrupted and exclusive possession since the execution of said conveyances, but shall be forever debarred Said deeds to be conclusive against grantor, and persons claiming under him.

therefrom without any saving or exception whatsoever, unless such entry be made or action brought within six calendar months from and after the passage of this act.

Passed at Dover, February 15, 1866.

CHAPTER 30.

EVIDENCE.

An Act providing for the Proof of the Ordinances and Resolutions of the City Council of Wilmington.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, as follows:

Ordinances and resolutions to be evidence.

SECTION 1. The printed copies of the Ordinances and Resolutions of the City Council of Wilmington, whether of a public or private nature, published by authority of "the City Council," shall be admitted as evidence thereof in all courts of law or equity, and on all occasions whatever, and in pleading it shall not be necessary to recite or draw them out at large.

Passed at Dover, January 25, 1866.

CHAPTER 31.

SURVIVENCY OF ACTIONS FOR PERSONAL INJURIES.

An Act in relation to Injuries or Death, occasioned by unlawful violence or negligence.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Action not to abate.

SECTION 1. That no action hereafter brought to recover damages for injuries to the person by negligence or default, shall abate

by reason of the death of the plaintiff; but the personal representatives of the deceased may be substituted as plaintiff and prosecute the suit to final judgment and satisfaction. Personal representatives.

SECTION 2. Whenever death shall be occasioned by unlawful violence or negligence, and no suit be brought by the party injured to recover damages during his or her life, the widow of any such deceased person, or if there be no widow, the personal representatives may maintain an action for and recover damages for the death thus occasioned. Widow of deceased may bring action. Or personal representatives.

Passed at Dover, January 26, 1866.

CHAPTER 32.

OF PLEADING AND PRACTICE IN CIVIL ACTIONS.

An Act in addition to Chapter 106 *of the Revised Code.* Rev. Code, 376.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That whenever any business is transacted in this State by an unincorporated association of persons using a common name, (ordinary partnerships excepted,) suits may be brought and the pleadings conducted against the individuals composing such association by such common name, and judgment recovered therein shall be a lien like other judgments, and may be executed by levy, seizure and sale of the personal and real estate of such association, and also that of the said persons in the same manner with respect to them as if they had been made parties defendant by their individual names; satisfaction thereof may also be obtained by attachment process. And after the first day of July next, no unincorporated association of persons (partnerships as aforesaid excepted) shall transact business in this State unless the individual names of all concerned therein shall be first certified by an officer of such association to the Pro- Suits against unincorporated associations. Of the judgment and execution. Certificate to be filed.

Penalty for neglect.

thonotary of each county, to be filed in his office; any person violating this provision shall forfeit and pay five hundred dollars to any person who will sue for the same.

No declaration required

SECTION 2. No declaration shall be necessary, nor shall any cognovit be required for the confession of any judgment; and every warrant of attorney authorizing the confession of judgment, whether after declaration filed or otherwise, shall be taken to authorize such confessions without the filing of any such declaration.

Where no declaration judgments not invalid.

SECTION 3. No judgment D. S. B., heretofore entered, shall be taken to be invalid because it does not appear that any declaration or cognovit was filed prior to the entering of the same, but whenever such declaration is required by the bond on which such judgment was entered, the court before whom any question shall be raised about the validity of such judgment for want of such declaration shall allow such declaration to be filed, *nunc pro tunc*, and the filing thereof, by virtue of such allowance, shall have the same effect as if it had been filed as the authority for the entering of such judgment.

Declaration *nunc pro tunc.*

Act to be additional.

SECTION 4. This act shall be taken to be an addition to Chapter 106 of the Revised Code, and hereafter shall be read and construed as part thereof; and in any addition* of the laws hereafter to be published, it shall be incorporated therein with an appropriate numerical change of sections.

Future publications.

Passed at Dover, February 9, 1866.

* So in enrolled bill.

CHAPTER 33.

OF THE CITY OF WILMINGTON.

Rev. Code, 209.
SEC. 1. Sec. 67 of Chap. 73, amended.

SEC. 1. In relation to footways, gutters and curbs.

Rev. Code, 209.

An Act to amend Chapter 73 of the Revised Code entitled, "Of the City of Wilmington."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each house concurring,)

Sec. 67 of Chap. 73 Rev. Code, in relation to the footways gutters and curbs, amended.

SECTION 1. That Section 67 of Chapter 73 of the Revised Code be amended by the addition thereto of the following words and figures, viz: And the City Council may further in their discretion in granting such application, cause such street, lane or alley, or any part thereof, to be paved between the curbings agreeably to the true regulations of said street, lane, or alley,

under the direction of the street committee, in the same manner, with the same powers and effect, to the same extent, and subject to the provisions of Section 24 of an act to amend the Charter of the City of Wilmington, passed at Dover, February 20, 1857, the same as if their said action were taken under the authority of said last mentioned section; and upon the application of two or more freeholders, residing or holding property on such street, lane, or alley, to cause it to be paved.

Passed at Dover, January 25, 1866.

CHAPTER 34.

OF THE CITY OF WILMINGTON.

Rev. Code, 209.
SEC. 1. City Council to have entire control of the drainage of the city.

SEC. 1. Proviso.

An Additional Act to amend Chapter 73 of the Revised Code entitled, "Of the City of Wilmington." Rev. Code, 209.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring, as follows:)

SECTION 1. The city council shall have the entire jurisdiction and control within the limits of said city of the drainage thereof, and may pass ordinances for the opening of gutters, drains and sewers within the limits thereof, and the regulating, maintaining, cleansing and keeping the same and the natural water courses, runs and rivulets within the said limits open, clear and unobstructed, and for that purpose may authorize the entry upon private land, and by general regulations prescribe the mode in which they shall be opened, maintained, cleansed and kept open and unobstructed and who shall bear the expense thereof, and may, in its discretion, assess the costs thereof upon the persons and property, real and personal, of those particularly benefited thereby, or of those owning or holding lands through or along which said sewers, drains or water courses shall flow or pass, and prescribe the mode of collection thereof: *Provided,* That nothing herein contained shall be construed to authorize the taking of private property for public use without just compensation. Control of the drainage of the city. Proviso.

Passed at Dover, January 30, 1866.

CONCERNING CITIES AND TOWNS.

CHAPTER 35.

OF THE CITY OF WILMINGTON.

Rev. Code. 209.

An Act to amend Chapter 73 of the Revised Code entitled, "Of the City of Wilmington."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Sec. 4 Chap. 73 of the Revised Code amended.

Clergymen not eligible to office.

SECTION 1. That Section 4 of Chapter 73 of the Revised Code of the State of Delaware be and the same is hereby amended by adding to the end thereof the following, to wit: "No ordained clergyman or ordained minister of the gospel, of any denomination, shall be eligible to any office established under or by virtue of this chapter or any amendment or supplement thereto."

Sec. 16 of said Chap. in relation to Electors' qualification amended.

How.

SECTION 2. That Section 16 of the said Chapter be amended by striking out of the fourth line of said Section the words, "for that year," and inserting in lieu thereof the words "within two years;" also, by striking out of the said Section all between the word "vote," in the fifth line, and the word "if," in the eleventh line thereof.

Passed at Dover, February 14, 1866.*

* Signed by the Speaker of the House.

CHAPTER 36.

MILFORD.

7 Vol. 441.

A Further additional Supplement to the act entitled, "An Act to amend the act entitled 'An Act directing the choosing of Commissioners to regulate and repair the Streets of Milford, and for other purposes.'"

Town Commissioners authorized to curb and pave a certain street.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for the Town Commissioners of the Town of Milford, and they are hereby directed to cause North Street,

in said Town of Milford to be curbed with stone and paved with hard brick of * the width of five feet on each side of said North street, from its intersection with Front street on the western side, to the southern boundary of Fourth street, and on the eastern side to Causey, or said Fourth street. It shall be the duty of the said commissioners, upon notice being served upon them or any one of them in writing, signed by five or more freeholders of the said town, requesting them to cause said street, within the limits aforesaid, to be curbed and paved as aforesaid, within five days thereafter to notify the owners of the property along the said street, on each side thereof, to have said curbing and paving done within ninety days from the service of said notice; and if such notice cannot be served upon any owner for any cause whatsoever, the commissioners shall cause a notice to be posted up in front of such property as may be owned by persons upon whom notice cannot be served in person on account of their residing without the corporate limits of the Town of Milford.

Commissioners to notify the owners of property on said street to pave and curb the same.

Of the service of notice.

SECTION 2. *And be it further enacted by the authority aforesaid,* That if any landowner along the line of said North street, within the limits mentioned in the first section of this act, shall refuse or neglect to curb or pave in front of or along the line of their respective properties for the space of ninety days from the service of notice as contemplated by Section 1, then it shall be the duty of the said commissioners to cause the same to be done within ninety days from such neglect or failure.

The commissioners shall curb and pave upon the neglect or refusal of said owners.

SECTION 3. *And be it further enacted by the authority aforesaid,* That the provisions of Section 4 of the supplement to the act to which this is a further additional supplement, passed at Dover, February 14th, 1851, be and the same are incorporated in and made a part of this act so far as the same may be applicable thereto and not inconsistent therewith.

Sec. 4 of the act of Feb. 14, 1851, a part of this act.

SECTION 4. *And be it further enacted by the authority aforesaid,* That if said commissioners shall refuse or neglect to perform the duties enjoined on them by this act, they shall be liable to a fine of fifty dollars each, to be recovered at the suit of any person who may inform upon them to any magistrate or Justice of the Peace, one-half of said fine shall be for the use of the informer, and the other half for the use and benefit of the Town of Milford, and they shall also be liable for all costs incurred. Proceedings shall be conducted and execution issued as for other fines imposed by a Justice of the Peace.

Penalty for neglect of commissioners.

SECTION 5. *And be it further enacted by the authority aforesaid,* That whenever said North street crosses any street within the

Of crossings.

* So in enrolled bill.

limits described in this act, the said Commissioners shall cause to be made good and suitable crossings, at the expense of said Town of Milford.

Passed at Dover, January 30, 1866.

CHAPTER 37.

OF THE CITY OF WILMINGTON.

A further Supplement to the act entitled, "An Act to amend Chapter 73 *of the Revised Code entitled, 'Of the City of Wilmington,'" passed at Dover, February* 28, 1861, *and to the Supplement to the said act, passed at Dover, on the 7th of March,* 1861.

12 Vol. 103 and 177.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring,) as follows:

SECTION 1. The first section of Chapter 73 of the Revised Code, as amended by the acts to which this is a further supplement, so far as the boundaries of the City of Wilmington are set forth, is hereby stricken out, and the following limits assigned to said city and inserted in lieu of so much of said acts so stricken out, that is to say: The City of Wilmington shall be bounded as follows, viz: Beginning at the Delaware River, at a point one thousand yards eastwardly from a stone set or to be set in the middle of the westerly bank of said river, in a line with the northerly side of Thirteenth street, extended; thence by a line forming an extension of said street without any change of course thereof, to the easterly side of the Brandywine Creek; thence along the same about one and a quarter miles to the old ford above the head of tide water, and continuing along said side of

Sec. 1 of Chap. 73, as amended by acts to which this is a supplement stricken out.

Limits of the City of Wilmington defined.

said creek about 3,300 feet, or until it reaches a point 6,968 feet (measured at right angles) from the northerly side of Front street, extended westwardly; thence north fifty-eight degrees west and parallel with Front street, to a line intersecting Front street at right angles at the distance of 2,330 feet westerly from the corner of Broom street; thence along said line south 32 degrees west and parallel with Market street 6,968 feet to the northerly side of Front street, extended, (2,330 feet westerly from the centre of Broom street); thence continuing the same course over Front street to a point 1,690 feet from the southerly side thereof; thence south 58 degrees east and parallel with Front street to the northerly side of the Christiana Turnpike Road; thence by a line running southerly, and at right angles to said turnpike, to a marked stone intended to be set in the bank at the southerly side of Christiana River; thence easterly parallel with Front street to the Delaware River aforesaid, to a point therein one thousand yards from a marked stone intended to be set in the middle of the western bank of said river, and thence thereby northerly to the place of beginning.

Powers of Mayor and Council extended to the new limits.

SECTION 2. Within the limits of the City of Wilmington established by this act, the Mayor and Council of Wilmington shall be vested with all power, rights, privileges and immunities which before this time belonged to them as a municipal corporation. All the laws, ordinances and regulations in force within the former city limits, and not locally inapplicable, shall be extended and applied to the new territory comprised within the boundaries as set forth in the first section of this act.

Laws and ordinances now in force to apply to new limits.

Duty of City Assessors.

SECTION 3. The City Assessors shall, as to all real estate not heretofore within the city but now comprised within the lines described in Section 1, and as to the capitation rates for poll taxes, transfer the assessment thereof from the assessment list of New Castle county for the year 1866, two-thirds of which assessment shall continue to be the assessment thereof, without change or alteration, for the term of two years. No appeal shall be taken from the assessment so made. Where a piece of land has been assessed as an entirety on the county assessment and a part thereof has been brought within the city by the new boundaries, it shall be the duty of the City Assessor to assess such part as nearly as may be conformably to the county rate. From such assessment an appeal shall lie as in other cases. Persons residing in the newly acquired territory, and not found on the county assessment, shall from time to time be rated for poll tax by the City Assessor, from which there may be an appeal. No tax shall be laid by the city upon such transferred assessments prior to the year 1867. Taxes laid upon assessments transferred from the county list shall be upon the rate of six per cent. upon said assessments.

No appeal allowed.

In case land, part of which is within the city and part without.

In such cases appeal allowed.

Persons not on county assessment.

Tax not to be laid till 1867.

CONCERNING CITIES AND TOWNS.

City wards to continue as heretofore and as enlarged by new limits.

SECTION 4. Hereafter the First Ward of the City of Wilmington shall comprise all the present first ward and that portion of the new territory lying west of the causeway or public road leading from Wilmington to New Castle. The Second Ward shall comprise all the present Second Ward and that portion of the new territory lying east of the causeway or before-mentioned road to New Castle and south of Fourth street extended to the river Delaware. The Fourth Ward shall comprise the present Fourth Ward and that portion of the new territory lying east of it and between Fourth and Tenth streets, extended to the river Delaware. The Fifth Ward shall comprise all the present Fifth Ward and that portion of the new territory acquired by this act lying north of Tenth street. The Third Ward shall remain with its present limits.

City Council not to cause any person within new limits to pave or curb streets, &c., till two years. Exceptions.

SECTION 5. It shall not be lawful for the City Council, for two years from the passage of this act, to cause any paving of streets or sidewalks, or any curbing in said extended territory of said city, unless such curbing or paving be asked for by persons owning at least two-thirds of all the front of each and every square, in front of which it shall be proposed to curb or pave.

Lines of School Districts, within new limits to remain as at present for two years for school purposes.

SECTION 6. The lines of any School District brought into the City of Wilmington by the extension authorized by this act of the limits of said city shall, for the term of two years, for all school purposes, remain as the same now are; and all persons within the said new lines shall have their school privileges, in the schools of said Districts as heretofore existing, and not in the Public Schools of Wilmington, and shall be assessed, and the property within said lines shall be assessed for the term aforesaid, for the support of the Schools of said respective Districts, in the same manner and to the same effect as before the passing of this act; and no school tax for the Public Schools of Wilmington shall be levied on said persons or property during said term.

Roads how vacated.

Notice.

Damages, how valued.

SECTION 7. *Be it further enacted as aforesaid,* That no public or private road included within the limits of said city shall hereafter be vacated, either upon the application of the City Council or of any person interested, unless notice of the intention to apply, either to the General Assembly or to the Court of General Sessions of the Peace and Jail Delivery, to vacate such public or private road, be first published for the period of thirty days, in two of the newspapers published in said city, prior to such application; and when any such roads shall have been vacated as aforesaid, any person sustaining injury thereby may apply to the Court of General Sessions of the Peace and Jail Delivery in and for New Castle county to appoint three disinterested and impartial persons to value the damages which he has sustained, and

the damages so assessed shall be paid by the City Council aforesaid before said road so vacated shall be closed up or obstructed.

SECTION 8. All acts and parts of acts of this Legislature, inconsistent with this act, are hereby repealed. Inconsistent acts repealed

Passed at Dover, February 16, 1866.

CHAPTER 38.

MILFORD.

7 Vol. 441.
SEC. 1. Town Commissioners authorized to curb and pave a certain street.
2. The Commissioners shall curb and pave upon neglect or refusal of said owners.
SEC. 3. Section 4 of the act of Feb. 14, 1851, a part of this act.
4. Penalty for neglect of Commissioners. Crossings.

A further Additional Supplement to the act entitled "An Act to amend the act entitled, 'An Act directing the choosing of Commissioners to regulate and repair the Streets of Milford, and for other purposes.'" 7 Vol. 441.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for the Town Commissioners of the Town of Milford, and they are hereby directed to cause Church street, in said Town of Milford, to be curbed with stone and paved with hard brick of the width of five feet on each side of said Church street from its intersection with Front street on the western side to the southern boundary of Third street, and on the eastern side to the southern boundary of Second street. It shall be the duty of the said commissioners, upon notice being served upon them, or any one of them, in writing, signed by five or more freeholders of the said town, requesting them to cause said street, within the limits aforesaid, to be curbed and paved as aforesaid, within five days thereafter to notify the owners of the property along the said street, on each side thereof as aforesaid, to have said curbing and paving done within ninety days from the service of said notice; and if such [notice] cannot be served upon any owners, for any cause whatsoever, the commissioners shall cause a notice to be posted up in front of such property as may be owned by persons upon whom notice cannot be served in person on account of their residing without the corporate limits of the Town of Milford.

Town Commissioners authorized to curb and pave a certain street.

Commissioners to notify the owners of property on said street to pave and curb the same.

Of service of notice.

SECTION 2. *And be it further enacted by the authority aforesaid,* That if any landowners along the line of said Church street, within the limits mentioned in the first section of this act, shall

The commissioners shall curb and pave upon the neglect or refusal of said owners.

refuse or neglect to curb or pave in front of or along the line of their respective properties for the space of ninety days from the service of notice, as contemplated by Section 1, then it shall be the duty of the said commissioners to cause the same to be done within ninety days from such neglect or failure.

Sec. 4 of the act of Feb. 14, 1851, a part of this act.

SECTION 3. *And be it further enacted by the authority aforesaid,* That the provisions of Section 4 of the supplement to the act to which this is a further additional supplement, passed at Dover, February 14th, 1851, be and the same are incorporated in and made a part of this act, so far as the same may be applicable thereto and not inconsistent therewith.

Penalty for neglect of commissioners.

SECTION 4. *And be it further enacted by the authority aforesaid,* That if said commissioners shall refuse or neglect to perform the duties enjoined on them by this act, they shall be liable to a fine of fifty dollars each, to be recovered at the suit of any person who may inform upon them to any magistrate or Justice of the Peace, one-half of said fine shall be for the use of the informer and the other half for the use and benefit of the Town of Milford, and they shall be liable for all costs incurred. Proceedings shall be conducted and execution issued as for other fines imposed by a Justice of the Peace.

Crossings.

SECTION 5. *And be it further enacted by the authority aforesaid,* That wherever said Church street crosses any street within the limits described in this act, the said commissioners shall cause to be made good and suitable crossings at the expense of said Town of Milford.

Passed at Dover, February 15, 1866.

CHAPTER 39.

FARMERS' BANK OF THE STATE OF DELAWARE.

An Act to authorize the conversion of the Farmers' Bank of the State of Delaware into a National Banking Association, under the General Banking law of the United States.

Preamble.

WHEREAS the State of Delaware is the owner of Stock in the Farmers' Bank to the amount of three hundred and sixty-five thousand and seven hundred dollars, being more than one-half

IN RELATION TO BANKS.

of the whole capital of said bank, the whole capital thereof amounting to the sum of six hundred and eighty thousand dollars; AND WHEREAS the stock owned by this State, added to the stock owned by individuals who have voted in favor of the conversion of said bank into a national banking association, under the general banking law of the United States, will amount to more than two-thirds of the whole capital stock of said bank; AND WHEREAS the principal bank is located and doing business at the Town of Dover, in Kent county, and has branches doing business and located, one at the City of Wilmington, in New Castle county; one at the Town of New Castle in New Castle county, and one at Georgetown, in Sussex county; now therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the directors of the Farmers' Bank of the State of Delaware and of the several branches thereof be, and they are hereby authorized and empowered to change and convert the Farmers' Bank of the State of Delaware, and the several branches thereof, into a national banking association, with branches under the general banking law of the United States and according to the provisions of the act of Congress entitled, "An act to provide a national currency secured by a pledge of United States Bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and the amendments thereto; and the said directors are hereby further authorized and empowered to execute all papers and certificates, and to do and perform all acts, matters and things that may be necessary and proper fully to effect and complete such change and conversion.

Directors of Farmers' Bank and branches authorized to convert the same into National Bank

SECTION 2. *And be it further enacted,* That the name of the bank when so changed and converted shall be the "Farmers' National Bank of the State of Delaware."

Name of bank when converted.

SECTION 3. *And be it further enacted,* That the present directors of the Farmers' Bank of the State of Delaware, and of the several branches thereof, shall be the directors of the Farmers' National Bank of the State of Delaware and of the several branches thereof until their successors in office shall be duly chosen.

Who shall be officers of said new bank.

Passed at Dover, January 10, 1866.

IN RELATION TO BANKS—RAILROADS.

CHAPTER 40.

THE CITIZENS BANK OF SMYRNA.

12 Vol 337.
SEC. 1. Sec. 3 of Chap. 309, 12 Vol. amended.

SEC. 1. Term of Directors first chosen extended.

12 Vol. 337. *An Act to amend Chapter 309 of the 12th Volume of the Laws of Delaware.*

Sec. 3 of Chap. 309, 12th Vol. Del. Laws, amended.

Term of Directors first chosen extended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 309 of the 12th Volume of the Laws of Delaware, entitled, "An additional supplement to the act entitled, 'An act to incorporate a Bank in Smyrna under the name of the Citizens' Bank of Smyrna,'" be and the same is hereby amended by striking out the word "sixty-four," in line 5 of Section 3 of said act, and inserting the word "sixty-six" in lieu thereof.

Passed at Dover, February 17, 1866.

CHAPTER 41.

GUMBOROUGH AND BERLIN RAILROAD COMPANY.

An Act to incorporate the Gumborough and Berlin Railroad Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (with the concurrence of two-thirds of each branch of the Legislature,) That Robert M. Rodney, Philip W. Mathews, Thomas H. Riggin, Joseph S. Jones, Ebenezer Gray, William H. Betts, Joseph Ellis,

William T. Elliott, James H. Tyer, Clement C. Hearn, Joseph G. White, Benton H. Gordy, William E. Cannon, George W. Cary and James W. Smith be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: They or a majority of them shall procure and cause to be opened at such times and places, and on such notice as they may deem proper, suitable books for subscriptions to the stock of the Gumborough and Berlin Railroad Company, and they shall permit all persons of lawful age to subscribe in said books in their own names, or in the name of any other person or company who may authorize the same, for any number of shares in said stock. The capital stock of said company shall not exceed five hundred thousand dollars, divided into twenty thousand shares of twenty-five dollars each.

Commissioners.

Duties.

Capital stock

SECTION 2. *And be it further enacted as aforesaid,* That when and as soon as one thousand shares of capital stock in said company shall be subscribed as aforesaid, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name and title of the Gumborough and Berlin Railroad Company, and by the same name the subscribers shall have perpetual succession and be able to sue and be sued, plead and be impleaded, in all courts of record and elsewhere, and to purchase, receive, have, hold, and enjoy, to them and their successors, real and personal estate of every kind whatsoever, and the same to grant, mortgage, sell, alien, and dispose of, and to declare dividends of such portions of the profits of the company as they may deem proper, also to make and have a common seal, and the same to alter and renew at pleasure, and also to make and ordain by-laws and regulations for the government of the said corporation not inconsistent with the constitution and laws of the United States or of this State, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well being and ordering of the same: *Provided,* That nothing herein contained shall confer any banking privileges on the said company, or any other liberties, franchises or privileges but those which are properly incident to such a corporation.

Incorporated When.

Name.

Powers.

Proviso.

SECTION 3. *And be it further enacted as aforesaid,* That as soon as one thousand shares shall be subscribed, as aforesaid, the said commissioners, after giving at least ten days notice thereof in two or more newspapers, published in this State, shall call a meeting of the said subscribers in Gumborough, to organize the said Company by the choice and appointment of officers as hereinafter mentioned.

Meeting of subscribers. When.

SECTION 4. *And be it further enacted as aforesaid,* That there shall be an annual meeting of stockholders, on the second Monday in January, in every year, in the village of Gumborough, for

Annual meeting When.

CONCERNING RAILROADS.

For what purpose.

the purpose of electing Directors, and for the transacting of other business; in all meetings of the stockholders, regularly convened, those present may proceed to business, and all questions shall be determined by a majority of the votes given. All elections by stockholders shall be by ballot, and all votes shall be given in person or by proxy, and each share of stock shall entitle the owner to one vote. Occasional meetings of the stockholders may be called, and at such places as the President and Directors may deem expedient.

Ballot.

Proxy.

Occasional meetings.

SECTION 5. *And be it further enacted as aforesaid,* That at the first meeting of the stockholders to be held under the call of the said commissioners, and at every annual meeting of the stockholders to be held thereafter, as aforesaid, they shall elect seven directors, a majority of whom shall be citizens of this State, and all of them stockholders in the said company. The first election of directors shall be conducted by two of the said commissioners as the judges thereof, and all subsequent elections of said officers shall be conducted by two of the stockholders not in the board, to be appointed by the directors, for the time being, as judges for that purpose. The directors, immediately after their election, shall proceed to choose one of their number to be the President of their company, and of the said board; and their term of office shall be until the annual meeting of the stockholders succeeding their election, and until their successors shall be duly chosen. The directors shall also appoint, immediately after their election, a Secretary and Treasurer of the said company, who shall continue in office for the term as aforesaid, and until their successors shall be duly appointed, unless sooner removed, for a sufficient cause, by the directors. They shall require of the Treasurer, on his appointment, a bond, with sufficient security, for the proper performance of the duties of his office and the faithful discharge of the trust reposed in him by the said company. A majority of the whole number of directors shall constitute a quorum for the transacting of business, and in the absence of the President may appoint a chairman of the board *pro tempore.* Vacancies in the board of directors, and in the offices of President, Secretary and Treasurer, may be filled by the remaining directors, to continue as aforesaid.

Directors.

Elections.

President.

Term.

Secretary and Treasurer.

Term.

Bond of Treasurer.

Quorum.

Vacancies.

SECTION 6. *And be it further enacted as aforesaid,* That the said President and Directors shall hold their meetings in the village of Gumborough, and in such other places as they may deem expedient, on the line of the said road; and the said directors shall have the general direction, conduct and management of the property, business and operations of the said company, and for that purpose shall have power to appoint, engage and employ all such officers, and agents, engineers, contractors, workmen and

Meetings, where held.

Powers of Directors.

laborers, as they shall deem necessary, and to fix salaries of all officers in the corporation, and the compensation and wages of all persons employed by them as aforesaid, and to take bond from them or any of them, with security, for the faithful performance of their duties or contracts; to procure such materials, erect such structures and buildings, and to purchase or employ such engines, cars, and other equipments and supplies for the road, and for that purpose to make and enter into such contracts and agreements with other persons and companies as they may consider expedient and proper, and best adapted to promote the objects and subserve the interests of the said company; they shall have full power to do all acts that may be necessary to effect the purposes for which the said company is hereby incorporated, and to this end raise the capital stock and funds of the said company, and to bind by their contracts, under the seal of their corporation and the hand of the President, all the property and estate of the said company. They shall also have the power to make and prescribe the by-laws and regulations for the government of the company; to provide certificates of stock under the seal of the company and the signature of the President, and countersigned by the Secretary, for all the shares subscribed; and to prescribe the mode of assigning and transferring the same, and generally to do all such other matters and things as by this act and the by-laws and regulations of the company they shall be authorized to do.

By-laws.

Certificates of stock.

Assignment of stock.

SECTION 7. *And be it further enacted as aforesaid,* That it shall be the duty of the President and Directors to procure certificates of stock for all the shares subscribed in said company, and cause the same, signed, sealed, and countersigned, as aforesaid, to be issued to the subscribers therefor, which shall be assignable, at the will of the holder, in the method prescribed in the by-laws of the company, and the assignee of any such certificate, so transferred, shall be a stockholder in said company, and shall be entitled to all the rights and emoluments incident thereto, and be subject to all the installments, forfeitures and penalties, due or to become due thereon, as the original subscriber would have been.

Certificates of stock.

Assignable.

Rights of Assignee.

SECTION 8. *And be it further enacted as aforesaid,* That the subscribers to the said capital stock shall pay to the Treasurer of the said company the installments on each share by them subscribed, as the same shall be respectively called in, pursuant to the public notice and call of the Directors; and if any subscriber shall omit for thirty days after any such call to pay any such installment at the time and place appointed in said notice, he shall pay, in addition to the installment, at the rate of two per cent. a month for the delay of such payment, or the shares so held by him, with all the previous installments paid thereon, may be declared for-

Installments

Failure to pay.

Forfeiture.

How recovered.

Proviso.

feited to the company at the option of the Directors; all sums of money which may accrue to the company under this section, may be sued for and recovered as debts of a like amount are recoverable by the laws of this State; *Provided,* That no stockholder shall be entitled to vote at any election, or in any meeting of the said company, on whose shares any installments shall have been due and payable more than thirty days previous to such election or meeting, and are still unpaid at that time.

Dividends.

When declared.

Notice.

Statement of affairs of company.

SECTION 9. *And be it further enacted as aforesaid,* That the said President and Directors shall from time to time make and declare dividends of the nett profits of the business of the company, or of such portions of such profits as they may deem advisable, the times for which shall be fixed by the by-laws, and public notice thereof shall be given by them, and at each annual meeting of the stockholders, it shall be the duty of the President and Directors of the preceding year, to submit, to report, and to exhibit to them a full and correct statement of the proceedings and affairs of the company for that year.

Road to be located, where.

To unite with Del. R. R.

Conditions to be in writing.

To unite with other railroads.

SECTION 10. *And be it further enacted as aforesaid,* That the said company be, and they are hereby authorized to survey, locate and construct a railroad, with one or more tracks, from any point on the Delaware Railroad, on the north side of Broad Creek, to a point [on] the line dividing the State of Delaware and Maryland, near Bethel Methodist E. Church, and to connect or unite the same with the Delaware Railroad, with the assent of the Delaware Railroad Company, upon such terms and conditions as shall be agreed upon between the two companies, to be reduced to writing and authenticated under the seals of the said companies, and also to unite this said railroad with any other railroads which may hereafter be constructed in this State, or in the State of Maryland, upon such terms and conditions as may be agreed upon between the companies uniting or connecting, to be authenticated in like manner.

Refusal of owner to allow land and materials to be taken.

Application to Superior Court or Judge.

Notice.

Freeholders to assess damages.

SECTION 11. *And be it further enacted as aforesaid,* That whenever any land, earth, sand, gravel, or other materials, necessary to be taken and used in the construction of the said railroad, cannot be procured or purchased of the owner thereof by agreement between him and the company, the latter may* to the Superior Court of Sussex county or to any Judge thereof in vacation, first giving the other party at least five days notice in writing of the intended application, if within the State, and the said court or judge shall appoint five judicious and impartial freeholders to view the premises and assess the damages which the owner or owners will sustain by reason of the said railroad passing through it in taking and using the same. The said freeholders shall be

* So in enrolled bill.

sworn or affirmed before some Judge, Justice of the Peace, or Notary Public, before entering upon the premises, faithfully and impartially to perform the duty assigned them, and they shall give ten days written notice to the owner or owners of the premises, if within the State, and the same to the President of the company of the time of their meeting for the discharge of their duty, which shall be upon the premises, and they shall make report in writing, under their hands or the hands of a majority of them, to both parties; but if either party be dissatisfied with the damages so assessed, such party may, on application to the Prothonotary of the Superior Court in and for Sussex county, within thirty days after such assessment, sue out a writ of *ad quod damnum*, requiring the Sheriff, in the usual form, to inquire of twelve impartial men of his bailiwick of the damages aforesaid, and their report shall be final; whereupon the damages so assessed being paid by the company to the party entitled, or into court for his or her use, whether they be under any disability, or in or out of the State, the title to the land and premises described and condemned in said report, for the purposes aforesaid, shall be absolutely vested in the said company, their successors and assigns. The fees of the freeholders and the Prothonotary in all such proceedings shall be fixed by the court, and in all cases shall be paid by the company.

Sworn. Notice of freeholders. Report. *Ad quod damnum.* Final. Upon payment of damages, title of company absolute. Fees. Paid by whom.

SECTION 12. *And be it further enacted as aforesaid,* That it shall be the duty of the said company to construct and keep in repair, good and sufficient passages across such railroad, where any public road shall cross the same, so that carriages, horses, persons and cattle shall not be obstructed in crossing said railroad; it shall likewise be the duty of the said company, when the said railroad shall intersect any farm, to provide and keep in repair a suitable passage across the said railroad for the use of said farm.

Crossings.

SECTION 13. *And be it further enacted as aforesaid,* That if any person or persons shall wilfully and intentionally damage or obstruct the said railroad, or any part thereof, or any part of the works and property of the said company, they shall be liable to the company, in a civil action, for double the damages sustained; and shall, moreover, be guilty of a misdemeanor, and on indictment and conviction, shall be fined not exceeding one thousand dollars, at the discretion of the court.

Damages or obstructions. Civil action for. Indictment for. Fine.

SECTION 14. *And be it further enacted as aforesaid,* That if, at any time, an election of officers of the said company shall not be held and had pursuant to the provisions and appointment of this act, the corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful to hold and have such election, at any time afterwards, on giving ten days notice thereof in two

Non-election of officers. Corporation not dissolved.

Notice of election. Vacancies supplied by Governor.

newspapers published in this State, of the time and place of holding such election; and it shall be lawful for the Governor of the State, for the time being, to supply any vacancies which may occur among the commissioners appointed by this act.

Tax on Capital Stock. When.

SECTION 15. *And be it further enacted as aforesaid,* That the said company shall pay semi-annually into the Treasury of the State, a tax at the rate of one half of one per cent. per annum on the capital stock of the company actually paid in, whenever the business of the company shall, over and above its liabilities or expenses, yield to the stockholders a profit or dividend on such stock equal to the rate of six per centum per annum.

Public act. Perpetual. Revocation.

SECTION 16. *And be it further enacted as aforesaid,* That this act shall be deemed and taken to be a public act, and may be pleaded and given in evidence as such in all courts of law and equity in this State, and that this charter shall be deemed and held to be perpetual, or without limitation as to the time, subject nevertheless to the power of revocation, for the misuse or abuse of its privileges by the said company, which is hereby reserved to the Legislature.

Passed at Dover, February 1, 1866.

CHAPTER 42.

WILMINGTON AND BRANDYWINE RAILROAD.

12 Vol. 136.

12 Vol. 136.

A further Supplement to an act entitled, "An Act to incorporate the Wilmington and Brandywine Railroad Company," passed at Dover, March 5, 1861.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch thereof concurring,) That it may and shall be lawful for the Delaware and Pennsylvania State Line Railroad Company, a corporation created by acts to which this a supple-

ment, to merge and consolidate its capital stock, franchises, and property, with the capital stock, franchises and property, of any other railroad company or companies, or corporations, organized or operated, or having the authority to be organized or operated under the laws of the State of Pennsylvania, whenever the railroads of the companies or corporations so to be merged or consolidated, shall form with each other, or by means of any intervening railroad, a continuous line of railroad to extend from any point at or near the City of Wilmington, towards or into the coal and lime regions of said State. *Provided,* That nothing in this act shall be taken to authorize the said merger or consolidation, unless the laws of said State of Pennsylvania shall authorize a like consolidation or merger; *Provided further,* That no interpretation shall hereafter be given to this act to authorize the merger or consolidation of said Delaware and Pennsylvania State Line Railroad with the railroads of this State.

Merger of D. & P. S. L. R. R. Co. with any R. R. Co. in Pa.

When.

Proviso.

Further proviso.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the said consolidation and merger shall be made under the conditions, provisions and restrictions, and with the powers hereafter mentioned and contained in this act, that is to say: First. The directors of the several corporations or companies proposing to merge or consolidate may enter into a joint agreement, under the corporate seal of each company or corporation, for the merging or consolidation of the said companies, corporations or railroads, and prescribing the terms and conditions thereof; the mode of carrying the same into effect; the name of the new corporation; the number and names of the directors, and other officers thereof, and who shall be the first directors and officers, and their places of residence; the number of shares of the capital stock; the amount or par value of each share, and the manner of converting the capital stock of each of the said companies or corporations into that of the new corporation; and how and when directors and officers shall be chosen; with such other details as they may deem necessary to perfect such new organization, and the merger or consolidation of such companies, corporations or railroads. Second. The said agreement shall be submitted to the stockholders of each of the said companies or corporations, at a meeting thereof, called separately, for the purpose of taking the same into consideration; due notice of the time and place of holding such meeting, and the object thereof, shall be given by written or printed notices, addressed to each of the persons in whose names the capital stock of said companies or corporations stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post office address is known to the company; and also by a general notice, published in some newspaper of any county wherein either of

Joint agreement of companies merging.

What to state.

Agreement submitted to stockholders of each corporation separately.

Notice of meeting.

General notice.

the said companies or corporations exercises its corporate privileges. And at the said meeting of stockholders, the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote; and the said ballots shall be cast in person or by proxy, and if two-thirds of the votes of all the stockholders shall be for the adoption of the said agreement, then that fact shall be certified thereon by the Secretary of the respective companies or corporations under the seal thereof: and the agreement so adopted, or a copy thereof certified by the Secretary of the respective companies or corporations, under the seal thereof, shall be filed in the office of the Secretary of State, and shall from thence be deemed and taken to be the agreement and act of consolidation or merger of the said companies or corporations; and a copy of said agreement or act of consolidation or merger, duly certified by the Secretary of State, shall be evidence of the existence of the said new corporation. Upon the filing of the said agreement, or a copy thereof, as aforesaid, the Secretary of State shall publish that fact, together with the date of filing, and the name of the new corporation, and the names of its directors, in two newspapers of this State.

Adoption of agreement.

Proxy.

Certificate of adoption.

Agreement and certificate, where filed.

Copy of agreement, with certificate of Sec. of State evidence of new corporation.

Sec. of State to publish filing of agreement or copy, &c.

SECTION 3. *And be it further enacted by the authority aforesaid,* That upon making and perfecting the said agreement and act of consolidation or merger, as provided in the preceeding section, and filing the same, or a certified copy thereof, as aforesaid, the several companies, corporations or railroads, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, possessing within this State all the rights, privileges, and franchises, and subject to all the restrictions, disabilities and duties of each of such corporations, companies, or railroads so consolidated or merged.

When merger perfected the companies to be deemed one corporation.

Rights, privileges, disabilities, duties, &c.

SECTION 4. *And be it further enacted by the authority aforesaid,* That upon the consummation of the said act of consolidation or merger, as aforesaid, all and singular the rights, privileges and franchises of each of the said companies or corporations, parties to the same, and all the property, real, personal and mixed, and all debts due on whatever account, including stock subscriptions, and things in action belonging to each of the said companies or corporations, shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed: and all property, all rights of way, and all and every other interests shall be as effectually the property of the new corporation, as they were of the former companies or corporations, parties to the said agreement; and the title to real estate, either by deed or otherwise, under the laws of this State, vested in either of such companies or corporations, shall not be deemed to revert or be in

Rights, &c., vest in new corporation.

Real estate of companies not to revert.

any way impaired by reason of this act; *Provided*, That all rights of creditors, and all liens upon the property of either of the said companies or corporations shall be preserved unimpaired, and the respective companies or corporations may be deemed to continue in existence to preserve the same; and all debts, liabilities and duties of either of the said companies or corporations shall thenceforth attach to the said new corporation, and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

Proviso. Rights of creditors &c.

Debts, liabilities, &c., attach to new corporation.

SECTION 5. *And be it further enacted by the authority aforesaid*, That any stockholder of the said the Delaware and Pennsylvania State Line Railroad Company who shall neglect or refuse to convert his stock into the stock of the said consolidated company or corporation shall, within thirty days after the adoption by the stockholders of the said agreement of consolidation or merger as hereinbefore provided, apply by petition to the Superior Court, in and for New Castle county, in term time, or to a Judge of said court, in vacation, to appoint three disinterested and impartial freeholders of the county to estimate the damage, if any, done to such stockholder by said consolidation or merger whose award, or that of a majority of them, shall be final and conclusive, and the persons so appointed shall also appraise said stock of such stockholder at the full market value thereof, without regard to any appreciation or depreciation in consequence of the said consolidation or merger, and the said new corporation may, at its election, either pay to the said stockholder the amount of damages so awarded, if any, or the value of the stock so ascertained and determined; and upon the said new corporation electing to pay and paying the value of the stock ascertained and determined as aforesaid, the said stock shall be as effectually transferred and may be disposed of by the directors as if it had been voluntarily transferred by said stockholder. In case the said stockholder neglect or refuse to receive the amount of damages, or the value of the stock as aforesaid, for a period of thirty days after the same shall have been awarded, ascertained or determined as aforesaid, then either of said amounts, at the election of the said new corporation, may be deposited to his credit in any bank within this State, and a certificate of deposit taken and recorded upon the books of the new corporation shall as effectually transfer said stock as if the said stockholder had voluntarily transferred it. In case the said stockholder shall neglect or refuse to petition as herein provided, then the directors of the new corporation may sell such stock, and pay the proceeds, after deducting expenses of sale, to such stockholder; or if he neglect or refuse to receive it, may deposit the same in like manner as

Stockholder refusing to convert stock &c.

Award of freeholders.

Stock, how appraised.

New corporation may pay damages or value of stock.

When stock deemed transferred.

If stockholder neglect or refuse to receive damages, &c. the same may be deposited in bank.

If stockholder refuse to petition, Directors may sell his stock

Proceeds, how disposed of.

aforesaid, whereupon the said stock may be transferred or otherwise disposed of by the said directors.

Subscriptions and additional shares of stock. For what purpose. Par value of stock. May borrow money. Mortgages and bonds.

SECTION 6. *And be it further enacted by the authority aforesaid,* That the said new corporation be and is hereby authorized to receive subscriptions for and issue such additional shares of capital stock as may be necessary to construct and fully equip the railroad or railroads to be constructed or operated by it; the par value of such additional shares shall be the same as that of the shares provided for in the agreement of consolidation or merger. And that the said new corporation may, from time to time, borrow money for corporate purposes and uses, and execute mortgages on all or part of their real estate, and issue bonds to secure the payment of the same.

Passed at Dover, February 7, 1866.

CHAPTER 43.

SMYRNA STATION AND SMYRNA RAILROAD COMPANY.

Vol. 12, 39-115.

An Act to amend "An Act to incorporate the Smyrna Station and Smyrna Railroad Company."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring therein,) That Section 1 of said act incorporating said railroad company, passed at Dover, February 7th, 1861, as amended March 5, 1861, be and the same is hereby amended, in lines sixteen and seventeen, by striking out the word "twenty," where it occurs in line sixteen, and inserting in lieu thereof the word "thirty;" and in line seventeen by striking out the word "two," where it occurs in line seventeen, and inserting in lieu thereof the word "three."

Section 1 amended. How.

SECTION 2. *And be it further enacted,* That Section 2 of said act be and the same is hereby amended in line nine, by striking out the word "four," and inserting in lieu thereof the word "fifteen;" and also by striking out the words "the subscribers," in line 6 of said section.

Section 2 amended. How.

SECTION 3. *And be it further enacted,* That Section 5 of said act be and the same is hereby amended by striking out the word "seven," in line thirteen of said section.

Section 5 amended. How.

CONCERNING RAILROADS.

SECTION 4. *And be it further enacted,* That Section 6 of said act be and the same is hereby amended by inserting the words "dummy engines" after the word "such," in line fourteen, and before the word "horse power," in the same line. Section 6 amended. How.

SECTION 5. *And be it further enacted,* That the said incorporation created by the act entitled "An act to incorporate the Smyrna Station and Smyrna Railroad Company," be and the same is hereby exempted from the payment of the tax imposed by the act entitled, "An act to raise revenue for this State," passed at Dover, August 11, 1864. Corporation exempt from tax of act Aug. 11, 1864

SECTION 6. *And be it further enacted,* That this act shall not take effect until the said the "Smyrna Station and Smyrna Railroad Company" shall signify their acceptance of the same to the Governor of this State, under the hand of the President, attested by the Secretary thereof, with their corporate seal affixed thereto; such acceptance shall be filed in the office of the Secretary of State. When act to take effect.

SECTION 7. *And be it further enacted,* That this act shall be deemed and taken to be a public act; and the act to which this is an amendment shall, in all future editions of the laws of this State, be published as hereby amended. Public act. Published as amended.

Passed at Dover, February 7, 1866.

CHAPTER 44.

JUNCTION AND BREAKWATER RAILROAD.

An Act to amend the act entitled, "An Act to aid the Junction and Breakwater Railroad Company in the completion of their road, and for other purposes," passed at Dover, March 14th, 1865. 12 Vol. 606.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled, "An act to aid the Junction and Breakwater Railroad Company in the completion of their road, and for other purposes," passed at Dover, March 14th, 1865, be and the same is Sections 1-2 of Chap. 537, 12 volume stricken out.

hereby amended by repealing and striking out the first and second sections thereof, and by substituting and inserting in lieu thereof the following: That as soon as the directors of said company shall have procured *bona fide* subscriptions to be made to the capital stock of said company to the amount of fifty thousand dollars, in addition to the stock already subscribed thereto at the date of the passage of the said act, on the fourteenth day of March in the year of our Lord one thousand eight hundred and sixty-five, and shall procure and cause the aforesaid additional subscriptions to the said capital stock to be paid in as hereafter provided, it shall be the duty of the State Treasurer, and he is hereby authorized, empowered and directed to cause the bonds of this State to be made to the amount of four hundred thousand dollars, and to deliver the said bonds to the amount of three hundred and fifty-two thousand dollars to the directors of said Junction and Breakwater Railroad Company, retaining the residue of said bonds for the purpose hereafter specified; said bonds to be delivered by the State Treasurer to the directors of the company aforesaid, at such times, and to such amounts as is hereafter provided, as a loan to the said company to aid in the construction of their railroad from Milford to Lewes.

State Treasurer authorized to make bonds.

To whom delivered.

What subscriptions to capital stock necessary to entitle the company to said bonds.

SECTION 2. *And be it further enacted by the authority aforesaid,* That so soon as the State Treasurer is satisfied, by the oath or affirmation of the directors of said company, that the sum of twenty-five thousand dollars has been paid in, in money, into the treasury of said company upon the additional subscriptions to the capital stock of said company required by the foregoing section of this act, it shall be the duty of the State Treasurer, for the time being, and he is hereby directed to deliver to the directors of the said company the bonds of this State, authorized by the foregoing section of this act, to the amount of one hundred and thirty-two thousand dollars; and whenever it shall appear to the satisfaction of the State Treasurer as aforesaid, that further *bona fide* additional subscriptions have been made to the capital stock of said company to the further amount of fifty thousand dollars in addition to the stock already subscribed thereto, as aforesaid, and that the balance or residue of the said fifty thousand dollars of additional subscriptions, first subscribed as aforesaid, together with the amount of twenty-five thousand dollars of the additional subscriptions, secondly subscribed as aforesaid, amounting in the aggregate to the further sum of fifty thousand dollars, has been paid in, in money, into the treasury of said company, it shall be the duty of the State Treasurer, for the time being, and he is hereby directed to deliver to the directors of said company the bonds of this State, authorized to be made by the foregoing section of this act, to the further amount of forty-four thousand

dollars; and whenever it shall appear to the satisfaction of the State Treasurer as aforesaid that further *bona fide* additional subscriptions have been made to the capital stock of said company to the further amount of fifty thousand dollars, in addition to the stock already and before subscribed thereto as aforesaid, and that the balance or residue of the fifty thousand dollars of additional subscriptions secondly subscribed, as aforesaid, together with the whole amount of the fifty thousand dollars of additional subscriptions thirdly subscribed as aforesaid, amounting in the aggregate to the further sum of seventy-five thousand dollars, has been paid in, in money, into the treasury of said company, it shall be the duty of the State Treasurer, for the time being, and he is hereby directed to deliver to the directors of said company the bonds of this State, authorized to be made by the foregoing section of this act, to the further amount of eighty-eight thousand dollars; and whenever it shall appear to the satisfaction of the State Treasurer, as aforesaid, that further *bona fide* additional subscriptions have been made to the capital stock of said company to the further amount of fifty thousand dollars, in addition to the stock already and before subscribed thereto, as aforesaid, and that the whole of the said amount of fifty thousand dollars, last subscribed to said additional stock as aforesaid, has been paid in, in money, into the treasury of said company, it shall be the duty of the State treasurer, for the time being, and he is hereby directed to deliver to the directors of said company the bonds of this State, authorized by the foregoing section of this act, to the further amount of eighty-eight thousand dollars.

Act to be accepted.

SECTION 3. *And be it further enacted by the authority aforesaid,* That the foregoing sections of this act, and the amendments of the said original act therein contained, upon acceptance of the same by the said company, at a meeting of its stockholders to be held within three months after the passage of this act, to be certified under the hand of the President, and the seal of the company, and delivered to the State Treasurer, who shall cause the same to be recorded in the offices of the Recorder of Deeds at Dover and Georgetown, the record of which shall be evidence thereof, shall be substituted and stand in lieu of the two first sections contained in the aforesaid act entitled, "An act to aid the Junction and Breakwater Railroad Company in the completion of their road, and for other purposes," and shall hereafter constitute the first and second sections thereof, the two first sections in the original being hereby repealed, made null and void, and the said act shall hereafter be printed as thus amended.

Passed at Dover, February 13, 1866.

RAILROAD AND NAVIGATION COMPANIES.

CHAPTER 45.

LEWES AND MILLSBOROUGH RAILROAD.

SEC. 1. Act Feb. 26, 1855, amended. | SEC. 1. Additional commissioners appointed.

Vol. 8, 375. Vol. 11, 258. *An Act to amend the act entitled "An Act to amend the act entitled, 'An Act to incorporate the Lewes and Millsborough Railroad Company.'"*

Section 2 amended. Additional commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section two of an act to amend the act entitled, "An act to incorporate the Lewes and Millsborough Railroad Company," passed at Dover, February 26th, 1855, be and the same is hereby amended by adding the names of Isaac McCabe, John T. Long, Robert B. Houston, Peter R. Burton, Gardiner H. Wright, and Charles C. Stockley, as additional commissioners under said act.

Passed at Dover, February 13, 1866.

CHAPTER 46.

THE MURDERKILL NAVIGATION COMPANY.

9 Vol. 87. SEC. 1. Section 2 of Chapter 86 amended. | SEC. 1. Names of certain commissioners stricken out and others inserted.

9 Vol 87. *An Act to amend an act entitled "An Act to establish a company under the name of 'The Murderkill Navigation Company.'" passed at Dover, February* 10, 1837.

Sec. 2 of Chap. 86, 9 Vol. amended.

Names of certain commissioners stricken out and others inserted.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the legislature concurring herein,) That the act entitled "An act to establish a company under the name of the Murderkill Navigation Company," passed at Dover, February 10, 1837, be and the same is hereby altered, amended and supplied by striking out the names of Solomon Townsend, Robert J. Lowber and Thomas Lockwood in the second section thereof, and inserting in lieu thereof John W. Hall, William Townsend and Henry Whitaker, and that the act before mentioned shall be read and construed according to the amendment herein prescribed, and in any edition of the laws of this State hereafter to be published, the act aforesaid shall be printed as amended by this act.

Passed at Dover, January 25, 1866.

NAVIGATION COMPANIES.

CHAPTER 47.

CHESAPEAKE AND DELAWARE CANAL COMPANY.

A further additional Supplement to an act entitled, "An Act to incorporate a company for the purpose of cutting and making a Canal between the Chesapeake Bay and Bay or River Delaware, or the waters thereof." Vol. 3, 170.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the legislature concurring,) That the Chesapeake and Delaware Canal Company shall have full power and authority to issue to the stockholders four shares of the capital stock of the said company, of the par value of fifty dollars each, in lieu of each share of the said stock now held by the said stockholders upon the surrender of the certificate therefor. Company may issue stock to stockholders. How much.

SECTION 2. *And be it further enacted,* That in estimating the number of votes which any holder of a certificate of debt or loan, issued by the Chesapeake and Delaware Canal Company, shall be entitled to give, by virtue of the eleventh section of the act of the General Assembly of the State of Delaware entitled, "A further additional supplement to an act entitled 'An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake Bay and Bay or River Delaware, or the waters thereof,'" passed at Dover, June 15th, A. D. 1836, every fifty dollars of the amount of said debt or loan so held shall be taken and estimated as equal to one share of the stock which the Chesapeake and Delaware Canal Company is authorized to issue by virtue of the 1st section of this act. Votes.

SECTION 3. *And be it further enacted,* That so much of the original act of incorporation, or of any of the additional supplements thereto, to which act this is a further additional supplement, as is altered or inconsistent with this act, be and the same is hereby repealed. Inconsistent acts repealed.

SECTION 4. [*And be it further enacted,*] That unless the Chesapeake and Delaware Canal Company shall signify to the Governor of this State, by an instrument under the corporate seal of the company, within one year from the passage of this act, their acceptance of the same, this act shall be null and void. In what case act to be void.

Passed at Dover, January 31, 1866.

CONCERNING ROADS.

CHAPTER 48.

NEW ROAD AUTHORIZED.

An Act to provide for the laying out and establishing a new public road in the western part of Dover Hundred, in Kent County, State of Delaware.

Road commissioners.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William Slaughter, John J. Voshell and John Williams be and they are hereby appointed commissioners, whose duty it shall be to go upon and view the premises and determine whether there is need of a new public road in the western part of Dover hundred, in Kent county and State of Delaware, to commence on the public road leading from the dwelling house of Philip Marvel, near Proctor's Bridge, to Day's Bridges, running thence in a northeasterly direction a distance of some thirty or forty yards, through lands of John C. Cox or Amos J. Cox, to the dividing line between lands of said John C. Cox or Amos J. Cox and lands of William Slay; thence with said dividing line a distance of some three hundred yards to a point entirely on the lands of said William Slay; thence through said lands of said William Slay, and through lands of John Fell, and through lands of John Dailey, until it intersects the public road leading from Proctor's Bridge to Wright's Red House, at a point near the gate of William Slaughter; and if the said commissioners, or a majority of them, shall be of the opinion that there is need of such new public road as that above described, then they shall, with the assistance of some skillful and impartial surveyor, to be by them selected, lay out such new public road as shall be most proper, having respect to the nature of the ground, shortness of the distance, and all circumstances of public or private convenience or detriment, and shall cause a map of such new public road to be made, showing the courses and distances thereof, the cleared land and woodland, with notes of the most remarkable places and improvements by or through which the same will pass, and shall assess the damages to every the owners or holders of the lands and improvements which shall be occasioned by the opening of such new public road, taking into consideration all the circumstances

Location.

Surveyor.

Map.

Damages.

of benefit or injury which will accrue to such owners or holders therefrom; and shall also make an estimate of the cost of making and opening such new public road, and of making and constructing the bridges and causeways thereon, (if any such shall be required,) setting down the several items of said costs; and if such new public road as that above described shall be laid out, then the said commissioners shall, in their return, set forth a description of such new public road, and that, in their opinion, there is need of the same for public travel and convenience, the damages assessed to the owners or holders of land, and all other matters proper and right to be set forth therein, and they shall annex to their said return the map of the said new public road.

Return of commissioners.

SECTION 2. *And be it further enacted,* That the map and the return so to be made by the said commissioners, as directed in the preceding section, shall be by them returned, as soon as conveniently may be after the passage of this act, to the Clerk of the Peace in and for Kent county, to be by the said Clerk of the Peace laid before the Levy Court of Kent county at their next meeting after the same shall be returned to him; and if the said Levy Court of Kent county shall approve of such new public road as above described, it shall be the duty of the said Levy Court to make such appropriation out of the funds of Kent county as shall be necessary to settle the damages which shall have been assessed by the said commissioners, and also to defray all the costs and expenses of laying out, opening and making such new public road, and of making and constructing the bridges and causeways thereon, (if any such shall be required); and the said Levy Court shall appoint an overseer for said new public road, whose duty it shall be to make and open said new public road, and to make and construct the bridges and causeways thereon, (if any such shall be required,) and fully and properly to complete and prepare the same for public use and travel. And when the said new public road shall be completed and prepared for public use and travel, then and thereafter the same shall be and hereby is declared to be a public road of Kent county, and from thenceforth shall be kept open, repaired and maintained, in all respects as other public roads in Kent county are kept open, repaired and maintained.

Map, &c.

Where returned.

To be laid before Levy Court.

Approval.

Damages, costs and expenses, how defrayed.

Overseer.

Public road.

SECTION 3. *And be it further enacted,* That the said commissioners appointed by this act, and the surveyor by them selected shall, before performing any of the duties herein required of them, be severally sworn or affirmed to discharge the duties imposed upon them by this act, and the surveyor to perform the duties for which he is employed, faithfully and impartially, according to the best of their skill and judgment respectively, which oath or

Commissioners and Surveyor to be sworn.

Who may administer oath.

Quorum.

Vacancies, how filled.

affirmation may be administered by any one of the said commissioners to the others, and to the surveyor. The acts of a majority of said commissioners shall be as binding and valid as if all of them had concurred therein. In case of a vacancy among said commissioners, from any cause whatever, such vacancy or vacancies may be filled by the remaining commissioners or commissioner, and such new commissioners shall be subject to the same duties and obligations as those appointed by this act.

Compensation of Commissioners, Surveyor and Chain-carriers.

SECTION 4. *And be it further enacted,* That the said commissioners and the surveyor and chain-carriers to be by them selected, shall severally be entitled to and receive the same compensation as is now provided by law for similar services under an order of the Court of General Sessions of the Peace and Jail Delivery of the State of Delaware, in and for Kent county, to lay out a new public road, which expenses, as well as all other expenses of said new public road, shall be allowed and defrayed by the said Levy Court of Kent county.

Passed at Dover, January 17, 1866.

CHAPTER 49.

NAME OF ROAD CHANGED.

SEC. 1. Name of the Marsh road changed to Vandever Avenue.

An Act to change the name of the "Marsh Road" beginning at the Village of Brandywine, opposite St. John's Church, and terminating at Shelpot Dam in Cherry Island Marsh.

Name of the Marsh road changed to Vandever Avenue.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the road situate in Brandywine hundred, having for its northern connection the Wilmington and Philadelphia Turnpike road opposite to St. John's Episcopal Church, in the village of Brandywine, and running in a south-easterly course along and through the lands of Joseph Tatnall, William Thatcher, Lewis Bullock, John P. Allmond, Adam Grubb, John Hayes, Enoch Townsend, James Vandever Jefferis, Joseph S. Derrickson and Albert Thatcher to the Philadelphia, Wilmington and Baltimore Railroad, and thence by the several courses thereof to Shelpot Dam

in Cherry Island Marsh, shall, from and after the passage of this act, be called and known by the name of "Vandever Avenue," and which shall be its proper designation.

Passed at Dover, January 18, 1866.

CHAPTER 50.

ROAD IN BALTIMORE HUNDRED.

12 Vol. 640.
SEC. 1. Section 3 of Chap. 560 amended.
SEC. 1. Error in original rolls corrected.

An Act to amend an act entitled "An act appointing freeholders to lay out a road in Baltimore hundred, in Sussex county." 12 Vol. 640.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the word "assessor," in the second line in Section 3 of said act, be and the same is hereby stricken out, and the word "overseer" inserted in lieu thereof. Sec. 3 of Chap. 560. Word "Assessor" changed to "Overseer."

Passed at Dover, January 18, 1866.

CHAPTER 51.

CHANGE OF A PUBLIC ROAD AUTHORIZED.

SEC. 1. Commissioners appointed to change the course of a certain public road.
Course of new road.
2. Map and returns.
SEC. 3. Levy Court may adopt said roads.
4. Commissioners to be sworn.
Their compensation.

An Act appointing Commissioners to straighten and lay out a public road in Kent county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That James Williams, Manlove Hayes, Robert B. Jump, George Parris, and James W. Spruance be and they are hereby appointed com- Commissioners.

missioners to go upon and view the public road in Little Creek hundred, leading from the Seven Hickories road to the public road at Mooreton leading from Shawn's Cross Roads to Leipsic, and if, in their judgment, or in the judgment of a majority of them, the public convenience would be promoted by changing the course of a part of said public road, they, or a majority of them, are hereby authorized to change and straighten the said public road.

Course of new road.

The said change or alteration to begin at a point where the said public road crosses the Delaware Railroad, about seventy-five yards below the upper switch of said railroad, and to run thence through lands of James S. Moore on and along the westerly side of said railroad in a southerly direction until it intersects the public road at Mooreton leading from Shawn's Cross Roads to Leipsic, and at no point to cross the said Delaware Railroad; and the said commissioners are hereby authorized to lay out a public road, as a continuation of the above described road, as intended so to be laid out, or as a new road, to run from the said Mooreton Station, on the west side of the said Delaware Railroad, in a southerly direction on a line with said railroad and parallel thereto, through the lands of James Woodall, W. D. Farrow, Benjamin Knotts, J. T. Farsons, S. R. Mendinhall and the heirs of H. Stout, until it intersects the road leading from Dinah's Corner to Leipsic.

SECTION 2. *Be it enacted by the authority aforesaid,* That the commissioners aforesaid, or a majority of them, are hereby authorized, with the assistance of some skillful surveyor, to be selected by them, to cause a map of the courses and distances of the road as hereby authorized to be changed and laid out, to be made out and returned to the office of the Clerk of the Peace in and for Kent county aforesaid, with an estimate of the costs of opening said road for public travel, and an assessment of damages (if any are allowed) to the person or persons through whose lands the said road or roads will pass.

Map and returns.

Levy Court may adopt.

SECTION 3. *Be it further enacted as aforesaid,* That the Levy Court of Kent county may adopt the alterations and changes made by the commissioners aforesaid as a part of the "road leading from the Seven Hickories road to the public road at Mooreton," and adopt and approve of the road to be laid out from Mooreton to the Dinah's Corner and Leipsic road, and may make appropriations for opening the same for public travel, and the road when so opened shall be deemed and taken to be a public road, and that part of the old road superseded by the alterations and changes hereby authorized to be made, shall thereupon be vacated.

Commissioners to be sworn.

SECTION 4. *And be it further enacted by the authority aforesaid,* That the commissioners aforesaid, before entering upon their duties under this act, shall be severally sworn or affirmed to dis-

charge their duties herein imposed impartially and to the best of their skill and judgment, and may respectively administer the oath or affirmation to each other. They shall each receive the sum of two dollars for each days attendance as commissioners aforesaid, to be allowed together with all other costs, by the Levy Court of Kent county, as is usual in like cases. Their compensation.

Passed at Dover, January 23, 1866.

CHAPTER 52.

CHANGE OF A PUBLIC ROAD AUTHORIZED.

An Act to authorize and empower the Road Commissioners of Pencader Hundred, in New Castle County, to change the course of a public road in said Hundred.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That the Road Commissioners of Pencader hundred, in New Castle county, from and after the passage of this act, shall have power and authority, and they are hereby authorized and empowered to change the course of a certain public road in said hundred, in the following manner, that is to say: Beginning at a point in the road leading from the village of Glasgow to the old turnpike road leading from Cooch's Bridge to Elkton, where said road crosses the dividing line between the lands of Daniel Bratton and J. F. Williamson; thence running in a northerly direction along the said dividing line between the lands of the said Daniel Bratton and J. F. Williamson, and entirely on the land of the said J. F. Williamson to the said old turnpike road. Commissioners. Road, how changed.

SECTION 2. That at any time after the first day of September, A. D. 1866, it shall and may be lawful for the said J. F. Williamson to stop up and enclose so much of the old road as now crosses the land of the said J. F. Williamson, in running from the point where it crosses the said dividing line between the lands of the said Daniel Bratton and J. F. Williamson to the said old turnpike road. Portion of old road vacated.

Passed at Dover, January 24, 1866.

CONCERNING ROADS.

CHAPTER 53.

CHANGE OF A PUBLIC ROAD AUTHORIZED.

An Act authorizing a change in the course of a public road in Dover Hundred, Kent County.

M. C. Conwell authorized to change a road.

Course of new road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Myers C. Conwell, from and after the passage of this act, shall have power and authority, and he is hereby authorized and empowered to change, lay out, make and straighten a certain public road in Dover hundred, in St. Jones' Neck, in the following manner, that is to say: Beginning at a point in the public road leading from Dover to the Delaware Bay, thirty feet east of a large hickory standing on the north side of the said bay road on land of the said Myers C. Conwell, and running thence north forty degrees east until it intersects the old public road leading from the bay road to Little Creek Landing, at a point in said last-mentioned road a little east of a small bridge over the head of Boggle Tree Branch; and the aforesaid change or alteration in the said public road shall not extend beyond lands of the said Myers C. Conwell.

Change to be made at his expense.

To be a public road.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the aforesaid Myers C. Conwell shall change, make and lay out at his own proper cost, charge and expense the said road, and put the same in good order for public travel, making the said road of the width required by law, and after the said road is made, opened, and put in good order for public travel, as aforesaid, that then and from thenceforth the said road shall be repaired and kept up at the public expense, as other roads in said county.

Old road vacated.

When.

SECTION 3. *And be it further enacted by the authority aforesaid,* That after the said road shall have been laid out, opened, made, and put in good order for public travel as aforesaid, it shall and may be lawful for the said Myers C. Conwell to stop up and inclose the old public road which runs through and crosses his land, beginning at the bay road and running to said point a little east of a small bridge over the head of Boggle Tree Branch aforesaid, and the said old public road is hereby declared to be vacated.

Passed at Dover, January 25, 1866.

CONCERNING ROADS.

CHAPTER 54.

NEW ROAD AUTHORIZED.

An Act appointing Commissioners to lay out a public road in Dagsborough Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Dr. John Martin, Benjamin Burton, William P. Jones, Eli T. Layton [and] George P. Morris be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a public road in Dagsborough hundred, in Sussex county, beginning at a public road near the terminus into the Burkfield road, thence by and through lands of R. B. Houston, Joseph Kollock, Robert B. Houston, lands (late) [of] the heirs of James A. Harris and Spencer A. Phillips, to intersect a public road leading from the State road, near Irons' Branch, to Mudfort; and if they, or a majority of them, shall determine that there is need of such new public road, they shall, with the assistance of some skillful surveyor, to be selected by them, lay out such new public road as they shall deem proper, having respect to the nature of the ground, shortness of distance, and all circumstances of public convenience, and shall cause a plot thereof to be made, representing the course and distance thereof, with notes of the most remarkable places, and of the woodlands, cleared lands and improvements, by or through which the same shall pass, and they shall assess the damages of every owner of said lands and improvements by reason of the laying out of said road, taking into consideration all the circumstances of benefit, as well as injury, which will accrue to each of said owners, and they shall make a computation of the costs of opening and making said roads, (bridges and causeways included,) setting down the several items of said costs, and if a road be laid out, shall, in their return, set forth a description of said road, and their determination that there is need of the same for public convenience, and shall annex to their said return the plot as aforesaid.

Commissioners.

Location.

Plot of road.

Damages assessed.

Costs computed.

Return.

SECTION 2. The plot and return so to be made, as aforesaid, by the said commissioners, shall be returned to the Clerk of the Peace, in and for Sussex county, aforesaid, to be by him laid before the Levy Court, and the said Levy Court, in and for the county of Sussex, may adopt said road as a public road or high-

Return of Plot.

Levy Court may adopt.

way, and may settle such damages as may have been assessed by said commissioners; and when said road shall have been established as a public road by the Levy Court of said county, the same shall be and remain subject to the same regulations and laws as other public roads in Sussex county.

Public road.

Commissioners and Surveyor to be sworn.

SECTION 3. The said commissioners and surveyor, before performing their respective duties under this act, shall be sworn or affirmed to perform the same according to the best of their judgment and skill respectively, which oath or affirmation may be administered by either of said commissioners, or any public officer qualified to administer oaths. The acts of a majority of said commissioners shall be as valid as if concurred in by all of them. In case of vacancy or vacancies, another or others may be appointed commissioner or commissioners by any Judge of this State, or by a Justice of the Peace in said county.

Oath, by whom administered.

Vacancy, how supplied.

Compensation.

SECTION 4. *And be it further enacted,* That a reasonable compensation for their services under this act shall be allowed and paid the said commissioners and surveyor by the Levy Court of Sussex county.

Passed at Dover, January 25, 1866.

CHAPTER 55.

ROAD VACATED.

An Act vacating a certain road in Broad Creek Hundred, Sussex county, Delaware.

Preamble.

WHEREAS it has been represented that a certain road in Broad Creek hundred, Sussex county, Delaware, is not of any public convenience or benefit to the community in that section of the State, and which said road is described in the first section of this act. Therefore,

Road in Broad Creek Hundred vacated.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the road in Broad Creek hundred, Sussex county, and State of Delaware, which runs from the road which leads from Low's Cross-Roads to Gumborough, to the road which leads from the

said Low's Cross-Roads to Millsborough, passing through lands of Lamberson Collins, and having its termini about two hundred yards from said Low's Cross-Roads, be and the same is hereby vacated and ceded to the said Lamberson Collins, the owner of the land on each side thereof, to have and to hold the same in like manner, and with the like estate and quantity of interest as he now holds the property on each side thereof; and the said Lamberson Collins is hereby authorized and empowered to close up the said road at his own expense, and for his so doing this act may be given in evidence, and be a sufficient justification in any action brought against him therefor in any court of this State.

The same ceded to L. Collins.

Expenses of vacating, how borne.

Passed at Dover, January 25, 1866.

CHAPTER 56.

PUBLIC ROAD AUTHORIZED.

An Act to authorize Curtis W. Jacobs to make a public road, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Curtis W. Jacobs be and he is hereby authorized to make, at his own expense, a public road or highway, of the width of thirty feet, across the Cypress Swamp, in Sussex county; said road to begin at the county road, near Benjamin Long's house, and run from thence across the lands of said Long, Jonathan Baker, Isaac McCabe, the said Jacobs, and Joseph Lewis, until it reaches the county road near said Lewis' house.

C. W. Jacobs authorized to make a public road.

SECTION 2. *And be it further enacted,* That when the said road is completed the said Jacobs shall give notice thereof, in writing, to Captain Henry Hickman, Captain James Bishop and Ebe Walter, who are hereby authorized to go upon the same and view it; and if they find that the said road has been well constructed as a highway, and has good and sufficient causeways, bridges and ditches, they shall make a report thereof, and certify the said facts to the Levy Court of Sussex county, at its next session; and thereupon, the said road shall become a public road and common highway, and shall be treated as such by the Levy Court aforesaid.

When completed to whom notice shall be given.

Viewers to report completion to Levy Court.

Public road.

Compensation of viewers.

The said viewers shall each be entitled for their services in the premises to two dollars per day for every day they are engaged in and about the business aforesaid, to be paid by the aforesaid Curtis W. Jacobs.

Viewers to be sworn.

SECTION 3. *And be it further enacted,* That before entering upon the duties assigned them by this act, the said viewers shall be duly sworn or affirmed to perform the said duties faithfully and impartially, according to the best of their skill and judgment, which qualification they may administer to each other. Their report aforesaid shall state that they were so sworn or affirmed.

Of the plot and report of viewers.

SECTION 4. *And be it further enacted,* That the said Curtis W. Jacobs shall, at his own expense, cause a survey and plot of said road to be made by a competent surveyor, and deliver the same to the said viewers, who shall append the same to their report as part thereof. The said report, including the said plot, shall be filed in the office of the Clerk of the Peace of Sussex county, and be recorded on the books of the Levy Court, and thenceforth the same shall be a public record. The expense of filing and recording shall be borne by said Jacobs.

Where filed.

Passed at Dover, January 29, 1866.

CHAPTER 57.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act to authorize Alfred Short and others to straighten and change the location of a certain Public Road in Cedar Creek Hundred, Sussex County.

Change of public road in Cedar Creek hundred.

Course of new road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Alfred Short, Simon Hegeman and William A. Scribner are hereby authorized and empowered to straighten and change the location of a certain public road in Cedar Creek hundred and Sussex county, in the following manner, that is to say: beginning at a place called Shawnee, at the forks of or junction of the Townsend road and Staytonville road, thence running in a northeasterly course across lands of Crego Wild & Co., lands of Simon Hegeman, William H. Ratcliff, and William Brown, to a place

called "Shaver's Branch," at the forks or junction of the Milford depot road and public road to Milford.

SECTION 2. *And be it further enacted,* That the original public road from Shawnee to the "Shaver's Branch" shall be vacated, and that so much of the said road as shall be vacated may be inclosed by the owners of the lands through which said road passes. That when the road is so straightened and the same put in good order for the public travel at the expense of the owners as aforesaid, it may be accepted by the Levy Court of Sussex county.

Old road vacated.

Acceptance of road by Levy Court.

Passed at Dover, January 30, 1866.

CHAPTER 58.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act to authorize Shepard P. Houston to straighten a Public Road in Lewes and Rehoboth Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Shepard P. Houston be and he is hereby authorized and empowered to alter and straighten that portion of the public road leading from the residence of said Shepard P. Houston to the branch below, a distance of about four hundred yards, running through the land of said Houston.

S. P. Houston authorized to change public road.

SECTION 2. *And be it further enacted as aforesaid,* That the aforesaid Shepard P. Houston shall lay out and make, at his own proper cost and charges, the said road, and put the same in good order, making the said road of the width required by law; and after the said road is made, opened and put in good order as aforesaid, then and from thenceforth the said road shall be repaired and kept up at the public expense as other roads in said county.

Costs of opening—how borne.

SECTION 3. *And be it further enacted as aforesaid,* That after the said road shall have been laid out and opened and made as aforesaid, it shall and may be lawful for the said Shepard P. Houston to enclose such portion of the old road as is rendered useless by the said change.

Old road vacated.

Passed at Dover, January 30, 1866.

CONCERNING ROADS.

CHAPTER 59.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Murderkill Hundred, Kent county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That George W. Anderson, John W. Reynolds, Edward Baily, William W. Cullen and Andrew J. Wright, of Kent county, be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a new public road, commencing at Church street, at the east end of the town of Felton, and to run from thence across lands of Niles and Herring and lands of William M. Satterfield until it intersects with the public road leading from Canterbury to Berrytown, at a point nearly opposite the dwelling-house of William M. Satterfield, and if the aforesaid commissioners, or a majority of them, shall determine that there is need of a new public road as above mentioned, then they shall, with the assistance of some skillful surveyor to be by them employed, lay out such public road as shall be most proper, having respect to the nature of the ground, the shortness of the distance, and all circumstances of public or private convenience or detriment, and shall cause a plot of said road to be made, representing the courses and distances thereof, and shall assess any damage which may accrue to the owner or owners of the lands through which the said public road shall pass, taking into consideration all the circumstances of benefit as well as injury which will accrue to each of the owners, and shall make a computation of the costs of opening and making said public road and making the bridges and causeways thereon, if any, setting down the several items of said costs, and shall in their return set forth a description of the said public road and their determination that there is need of the same for public convenience, and shall annex to their return the aforementioned plot.

Commissioners.

Location.

Surveyor.

Plot.

Damages.

Return of Commissioners.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the plot and return so to be made as aforesaid by the said commissioners, or a majority of them, shall be returned to the Clerk of the Peace in and for Kent county, to be by him laid before the Levy Court of the said county, and the said Levy Court may adopt and establish the said road so as aforesaid laid

Plot and return, where returned.

out and returned to them, provided the damages assessed to the several persons through whose lands the same shall have been laid out are satisfactory, and the location consented to by them; otherwise they shall have the same right of review as if the proceeding to lay out said road had been under an order from the Court of General Sessions of the Peace for Kent county. Right of review.

SECTION 3. *And be it further enacted by the authority aforesaid,* That the aforesaid George W. Anderson, John W. Reynolds, Edward Bailey, William W. Cullen, Andrew J. Wright, and the surveyor employed by them shall, before performing the duties herein assigned, be severally sworn or affirmed to perform the duties incumbent upon them under this act faithfully and impartially, according to the best of their skill and judgment, and for such services they shall receive the sum of one dollar each for each day they may be engaged in the aforesaid duties. Commissioners and Surveyor to be sworn. Compensation.

SECTION 4. *Be it further enacted,* That the road hereby authorized shall, from its adoption by the Levy Court aforesaid, be deemed and taken to be a public road, and the laws of this State applicable to public roads in Kent county are hereby extended to and shall apply to said road. To be a public road.

SECTION 5. *Be it further enacted,* That this act shall be deemed and taken to be a public act. Public act.

Passed at Dover, January 30, 1866.

CHAPTER 60.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Indian River Hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Dagworthy Derrickson, James F. Martin, Shepard P. Martin, John M. Hopkins, and William E. Hazzard, of Sussex county, Commissioners.

CONCERNING ROADS.

be and they are hereby appointed commissioners to go upon and view the premises, and determine whether there is need of a new public road in Indian River hundred, commencing at a point on the road leading from Lewes to Millsboro, at or near the house now occupied by Joseph Carey, on the lands belonging to Willliam F. Rodney, and running thence through said lands of William F. Rodney, lands of John and David Mustard, lands of Harbeson Hickman, lands of the heirs of David Millis, deceased, and lands of Thomas Walls, until it intersects the road leading from Cool Spring to Bundick's Branch, at or near Joppa Meeting House; and if the aforesaid commissioners, or a majority of them, shall determine that there is need of a new public road, as above mentioned, then they shall, with the assistance of some skillful surveyor, to be by them employed, lay out such public road as shall be most proper, having respect to the nature of the ground, the shortness of the distance and all circumstances of public or private convenience or detriment; and shall cause a plot of the said road to be made, representing the courses and distances thereof, and shall assess any damage which may accrue to the owner or owners of the lands through which the said public road shall pass, taking into consideration all the circumstances of benefit as well as injury which will accrue to each of the owners, and shall make a computation of the costs of opening and making said public road, and making the bridges and causeways thereon, if any, setting down the several items of said costs, and shall in their return set forth a description of the said public road, and their determination that there is need of the same for public convenience, and shall annex to their return the aforementioned plot.

Location.

Surveyor.

Plot.

Damages.

Return of Commissioners.

Plot and return.

SECTION 2. *And be it further enacted,* That the plot and returns so to be made, as aforesaid, by the said commissioners, or a majority of them, shall be returned to the Clerk of the Peace, in and for Sussex County, to be by him laid before the Levy Court of said county, and the same shall be a public road when accepted by the Levy Court of Sussex county as such.

Commissioners and Surveyor to be sworn.

SECTION 3. *And be it further enacted,* That the aforesaid Dagworthy Derrickson, James F. Martin, Shepard P. Martin, John M. Hopkins, and William E. Hazzard, and the surveyor employed by them, shall, before performing the duties herein assigned them, be sworn or affirmed to perform the duties incumbent upon them under this act, faithfully and impartially, according the best of their skill and judgment respectively, and for such services they shall receive the sum of one dollar each for each day they may be engaged in the aforesaid duties.

Compensation.

Passed at Dover, February 1, 1866.

CONCERNING ROADS.

CHAPTER 61.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act to enable Thomas W. Burton to straighten a certain Public Road on his own land in Indian River Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Thomas W. Burton be and he is hereby authorized to straighten the public road running from Long Neck to Angola, in Indian River hundred, in Sussex county, that is to say: Beginning at the end of a lane near the residence of the said Burton, at a point on the aforesaid road, and running a straight line through the lands of the said Burton until it reaches the said county road again near a school-house on said road.

T. W. Burton to straighten public road.

Course of new road.

SECTION 2. *And be it further enacted,* That the cost of opening and straightening of the said road shall be paid by the said Thomas W. Burton, and that when said road shall be opened and put in good order for public travel, the said Thomas W. Burton may vacate and enclose so much of the old road as is supplied by the new road.

Costs, how paid.

Old road vacated.

Passed at Dover, February 2, 1866.

CHAPTER 62.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Little Creek Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That John Morris, Joshua Cannon, and William H. Wheatly be and they are hereby appointed commissioners to go upon and view the

Commissioners.

CONCERNING ROADS.

premises and determine whether there is need of a new public road, commencing at a point at or near the Depot, on the Delaware Railroad, at Laurel, in Sussex county, and running from thence on the division line between the lands of William S. Callaway, and lands of Levin S. Callaway, until it intersects the public road leading from Nathaniel Horsey's mill to the town of Laurel; and if the said commissioners, or a majority of them, determine that there is need of a new public road, as above mentioned, then they shall, with the assistance of some skillful surveyor, to be by them employed, lay out such public road, and shall cause a plot of said road to be made, representing the courses and distances thereof, and shall assess any damages which may accrue to the owners of the land through which said road may pass, taking into consideration all circumstances of advantage, as well as injury, resulting to such owners, and shall make a computation of the costs of opening and making said public road and making the bridges and causeways thereon, if any, setting down the several items of said costs, and shall in their return set forth a description of the said road, and their determination that there is need of the same for public convenience, and shall annex to their return the aforementioned plot.

Location.

Surveyor.

Plot.

Damages.

Return of Commissioners.

SECTION 2. *And be it further enacted as aforesaid,* That the plot and return so to be made, as aforesaid, shall be returned by the commissioners, or a majority of them, to the Clerk of the Peace in and for Sussex county, to be by him laid before the Levy Court of said county, and the damages assessed being paid by the parties particularly interested therein, the Levy Court aforesaid may adopt the same as a public road, and may make such appropriations as they may deem proper for opening the same and keeping it in repair.

Plot and return.

To be laid before Levy Court.

SECTION 3. *Be it further enacted as aforesaid,* That the commissioners aforesaid, and the surveyor to be by them employed, shall, before entering on the duties herein required of them, be severally sworn or affirmed to perform the duties imposed by by this act, faithfully and impartially, according to the best of their skill and judgment. They shall receive for their services under this act such compensation as the said Levy Court may allow.

Commissioners and Surveyor to be sworn.

Compensation.

SECTION 4. *Be it further enacted as aforesaid,* That this act shall be deemed and taken to be a public act.

Public act.

Passed at Dover, February 2, 1866.

CONCERNING ROADS.

CHAPTER 63.

ROAD TO BE OPENED.

An Act to open a part of a new Public Road in Lewes and Rehoboth Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Levy Court Commissioner of Lewes and Rehoboth hundred, Sussex county, be and he is hereby authorized and directed to open a certain part of a new road laid out and confirmed by the Court of General Sessions of the Peace, in and for Sussex county, that is to say: Beginning at the lower end of the new public road lately opened, and at a point on the mill road running through the lands of John Marsh, William D. Paynter, James Magee, John Morrix and Joseph Morrix, and terminating at the county road leading from the Rehoboth beach to Burton's mill. L. C. Com. directed to open a road.

Passed at Dover, February 2, 1866.

CHAPTER 64.

CHANGE OF A PUBLIC ROAD AUTHORIZED.

An Act appointing Commissioners to change and straighten the course of a Public Road in Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Edward Beck, Horace Spruance, John H. Hoffecker, Peter Meredith and John Green be and they are hereby appointed commissioners to go upon and view the public road in Duck Creek hundred, leading from Spruance's Crossing, a point on the Delaware Railroad, to the Smyrna and Kenton road, and if in their judgment, or in the judgment of a majority of them, the public convenience would be promoted by changing the course of a part of said public road, they or a majority of them are hereby authorized to change and straighten said public road as follows, to wit: Commissioners.

Course of new road.

Beginning at the junction of the said road leading from Spruance's crossing to the Smyrna and Kenton road and the public road leading to Brenford Station, and from thence running the same course of the said road from Spruance's Crossing to the said junction, through lands of James W. Spruance and lands of Henry P. Massey, until it strikes or reaches a point in the common boundary or division line between lands of the said Henry P. Massey and lands of John L. Bilderback, and from thence running by and with the course of the said boundary or division line between said Massey and said Bilderback until it reaches the public road leading from Smyrna to Kenton.

Map and return of commissioners. Where returned. What to show.

SECTION 2. *And be it enacted by the authority aforesaid,* That the commissioners aforesaid, or a majority of them, are hereby authorized, with the assistance of some skillful surveyor to be selected by them, to cause a map of the courses and distances of the road as hereby authorized to be changed and straightened to be made out and returned to the office of the Clerk of the Peace, in and for Kent county aforesaid, with an estimate of the costs of opening said road for public travel, and an assessment of damages, if any be allowed, to the persons through whose lands the alteration in said road shall pass.

Levy Court may adopt. To be a public road. Old road vacated.

SECTION 3. *Be it further enacted,* That the Levy Court of Kent county may adopt the alterations and changes made by the commissioners aforesaid as a part of the road leading from Spruance's Crossing aforesaid to the Smyrna and Kenton road aforesaid, and may make appropriations for opening the same for public travel; and the road when so opened shall be deemed and taken to be a public road, and that part of the old road superceded by the alterations and changes hereby authorized to be made, shall thereupon be vacated and may be enclosed by the persons through whose lands the said vacated portion of the old road passes, and in any proceedings against them for so doing they may give this act in evidence under the general issue as their sufficient justification.

Commissioners to be sworn. Their compensation.

SECTION 4. *Be it further enacted,* That the commissioners aforesaid, before entering upon their duties under this act, shall be severally sworn or affirmed to discharge the duties herein imposed impartially and to the best of their skill and judgment, and may respectively administer the oath or affirmation to each other. They shall receive each the sum of two dollars for each days attendance as commissioners aforesaid, to be allowed together with all other costs by the Levy Court of Kent county as in other cases.

Public act.

SECTION 5. *Be it further enacted,* That this act shall be deemed and taken to be a public act.

Passed at Dover, February 7, 1866.

CONCERNING ROADS.

CHAPTER 65.

CHANGE OF PUBLIC ROAD.

An Act to authorize William W. Veasey to change the location of a Public Road upon his own land, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William W. Veasey be and he is hereby authorized to change the location and straighten the public road leading past the said William W. Veasey's residence, in Sussex county, as follows, to wit: Beginning at a point in the road running to Cool Spring, eighty-six yards in an eastwardly direction from where the road leading to the Beaver Dam intersects with the aforesaid road running to Cool Spring; from thence running in a southeasterly direction until it intersects with the road leading to the Beaver Dam aforesaid, eighty yards distant from the dwelling house owned by the said William W. Veasey; *Provided nevertheless,* That the said William W. Veasey shall not enclose or otherwise obstruct any part of the said original road until he, at his own proper charge and cost, shall have opened and put in good traveling condition the new road hereby authorized to be made by the change as aforesaid.

Wm. W. Veasey to change public road.

Course.

Road vacated.

Passed at Dover, February 7, 1866.

CHAPTER 66.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act appointing Commissioners to change and straighten the course of a Public Road in North West Fork Hundred, Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William E. Rogers, Haulsey Mastin, and Nathaniel Horsey be

Commissioners.

and they are hereby appointed commissioners to go upon and view that part of the public road that leads from Horsey's Cross-Roads to Seaford, from the dwelling house of Robert Frame to the dwelling house Jerome B. Layton, in North West Fork hundred, Sussex county, and if in their judgment, or in the judgment of a majority of them, the public convenience will not be impaired by changing the course and straightening that part of the said public road, they shall call to their assistance some skillful surveyor and change and straighten said public road, and vacate so much of the old road as is supplied by this change, and shall cause a plot thereof to be made representing the courses and distances thereof, with notes of the most remarkable places, by or through which the same shall pass, and representing the part of the old road to be vacated, and assess the damages, if any, to the owner or owners of any lands and improvement through which the said road may pass by the making of the change as aforesaid.

Location.

Surveyor.

Plot.

Damages.

Plot, &c., where returned.

SECTION 2. *And be it further enacted as aforesaid,* That the plot and return so to be made, as aforesaid, by the said commissioners, shall be returned to the office of the Clerk of the Peace, in and for Sussex county, and by him to be recorded.

At whose expense road to be opened.

SECTION 3. *Be it further enacted as aforesaid,* That after the commissioners aforesaid shall have laid out and changed said road, it shall and may be lawful for Robert Frame to open the said road for public travel, and for that purpose to make all necessary causeways and bridges, and to cut and remove any wood or timber standing in said road, and remove all other obstructions therefrom, at his own expense, and without cost and charges to Sussex county; and when so opened for public travel, the said road shall be deemed and taken to be a public road, and the Levy Court of said county may appoint an overseer therefor, and keep the said road open and in repair in the same manner as other public roads in Sussex county.

To be a public road.

Enclosure of part of old road vacated.

SECTION 4. *And be it further enacted as aforesaid,* That after the said road shall have been opened to public travel it shall and may be lawful for the owner or owners of the land through which the vacated part of the road passes to enclose the same, and in any proceedings against them for so doing they may give this act in evidence under the general issue as their sufficient justification.

Commissioners and Surveyor to be sworn.

SECTION 5. *And be it further enacted as aforesaid,* That the commissioners aforesaid, and the surveyor by them nominated and appointed for the service aforesaid, shall, before entering upon their duties under this act, be sworn or affirmed to discharge the duties herein imposed impartially, and to the best of their skill and judgment, and may respectively administer the oath or affirmation to each other. The said commissioners and sur-

veyor shall receive the fee usually allowed in like cases by the courts of this State for like services, for each days attendance, and for making out plot, notes, and report. Compensation.

SECTION 3. *Be it further enacted as aforesaid,* That this act shall be deemed and taken to be a public act. Public act.

Passed at Dover, February 13, 1866.

CHAPTER 67.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act to authorize John R. Ricards to change a certain Public Road in North West Fork Hundred, Sussex County, Delaware.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That John R. Ricards be and is hereby authorized and empowered to alter and change the public road in North West Fork hundred, Sussex county, that leads from Dale's Crossing, on the Delaware Railroad, to Cannon's mill, in the following manner, that is to say: Beginning at the first turn in said road, running from Dale's Crossing, and run a straight line the same course from said crossing until it intersects with an old fence now at or near a line of land belonging to said John R. Ricards and heirs of William Cannon, deceased, and from thence running a south-westerly course to the junction of the aforesaid road with the State road leading from Bridgeville to Cannon's mill and St. Johnstown. J. R. Ricards authorized to change a public road. Location.

SECTION 2. That the aforesaid John R. Ricards shall lay out and make, at his own proper cost and charge, the said road, and put the same in good order the width required by law, and after the same is made, opened and put in good order as aforesaid, and accepted by the Levy Court of Sussex county, that then and from thenceforth the said road shall be a public road, and kept up at the public expense as other roads in said county, and it shall be lawful for the said John R. Rickards to enclose such portion of the old road as is rendered useless by such change. Costs, how paid. To be a public road. Enclosure of old road.

Passed at Dover, February 13, 1866.

CONCERNING DITCHES.

CHAPTER 68.

GREEN BRANCH DITCH COMPANY.

12 Volume, 414. | SEC. 1. Act revived and amended.

12 Vol. 414. *An Act to revive and amend Chapter 392 of the Laws of Delaware, passed at Dover, January 28, 1864.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring,) That said chapter be revived and amended as follows, viz: by striking out the figure 4, in the eighth line of Section 2, and inserting in lieu thereof the figure 6.

Act revived. Amended.

Passed at Dover, January 30, 1866.

CHAPTER 69.

IMPROVEMENT OF MORGAN'S BRANCH.

12 Volume, 670. Preamble.
SEC. 1. Before tax laid under the original act a meeting of taxables to be called.
SEC. 2. Where the ditches authorized by the original act shall be cut.

12 Vol 670 *A Supplement to the act entitled, "An Act for the Improvement of Morgan's Branch, in Kent County.*

WHEREAS no expense has yet been incurred in the organization of the company incorporated by said act or otherwise; And whereas a majority of the owners of lands drained through said Morgan's Branch have filed their petition to this General Assembly, stating that the passage of said act was procured without their knowledge or consent, and asking relief against the provisions of said act as at present existing; Therefore,

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That before any tax shall be laid under the provisions of the act to which this is a supplement, for the purposes named in said act, a meeting shall be called of all the persons deemed by the commissioners to be taxable under the provisions of said act, written personal notice of which shall be delivered to each of said taxables or left at his or her usual place of residence at least ten days

Meeting of taxables.

Notice.

before the time of holding said meeting; and if at such meeting, voters representing a majority in value of the lands to be benefited by the proposed improvement shall vote against laying any tax for the purposes proposed by said act, then no tax shall be laid; otherwise a tax may be laid by said commissioners as in said act is provided.

Question of tax.

How decided.

SECTION 2. *And be it further enacted by the authority aforesaid,* That nothing in the act to which this is a supplement shall be deemed to authorize said commissioners to cut or open any ditch other than down and along the main head of said Morgan's Branch.

Where ditches shall be cut.

Passed at Dover, February 6, 1866.

CHAPTER 70.

BOUNTY.

An Act authorizing the payment of bounty money to John Dillahay.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be and he is hereby authorized and directed to pay to John Dillahay, of the town of Milford, the sum of two hundred dollars, being the amount of bounty due him under the provisions of the act of the General Assembly, passed at Dover, February 12, A. D. 1864.

State Treasurer to pay a certain bounty.

Passed at Dover, February 15, 1866.

CHAPTER 71.

PAYMENT OF CLAIMS.

An Act for the payment of Claims against the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be and is hereby authorized and directed to pay the following claims:

State Treasurer authorized to pay claims.

PAYMENT OF CLAIMS.

S. C. Letherbury, $13.84 — To S. C. Letherbury, for attendance on Court of Errors and Appeals, &c., thirteen dollars and eighty-four cents, in full to date.

Jas. Cowgill & Son, $6.50. — To James Cowgill & Son, for sundries for State House, six dollars and fifty cents, in full to date.

Custis W. Wright, $25.00. — To Custis W. Wright, for signing State bonds, twenty-five dollars, in full to date.

R. G. Ellegood, $50.00. — To Robert G. Ellegood, for making Auditor's report and settling with State Treasurer, fifty dollars, in full to date.

G.S. Hagany $180.00. — To George S. Hagany, for serving requisitions on Governor of Pennsylvania, one hundred and eighty dollars, in full to date.

F. Croydon, $12.25. — To F. Croydon, for repairs in Senate Chamber and Auditor's room, twelve dollars and twenty-five cents, in full to date.

W. Whitaker, $12.00. — To W. Whitaker, for attendance on Court of Appeals, twelve dollars, in full to date.

W. Whitaker, $192.63. — To W. Whitaker, for expenses in arresting oyster boat, one hundred and ninety-two dollars and sixty-three cents, in full to date.

J. F. Allen, $30.00. — To John F. Allen, for advertising, thirty dollars, in full to date.

G. W. Vernon, $56.00. — To George W. Vernon, for advertising, fifty-six dollars, in full to date.

Henry Eckel $68.00. — To Henry Eckel, for advertising, sixty-eight dollars, in full to date.

C. P. Johnson, $97.35. — To C. P. Johnson, for advertising, ninety-seven dollars and thirty-five cents, in full to date.

J. H. Hoffecker, $36.34. — To Joseph H. Hoffecker, for advertising, thirty-six dollars and thirty-four cents, in full to date.

S. H. Wiel, $32.50. — To Samuel H. Wiel, for advertising, thirty-two dollars and fifty cents, in full to date.

James Kirk, $164.03. — To James Kirk, for advertising, one hundred and sixty-four dollars and three cents, in full to date.

S. M. Harrington, $150.00. — To S. M. Harrington, for publishing pamphlet laws, 1864, one hundred and fifty dollars, in full to date.

J. B. Penington, $300.00. — To J. B. Penington, for indexing and superintending publishing of Journal of House of Representatives of special session, 1864, three hundred dollars, in full to date.

Passed at Dover, February 17, 1866.

RESOLUTIONS.

CHAPTER 72.

Joint Resolution adjourning the General Assembly until Tuesday next, the 16th inst., at 10 o'clock, A. M.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That when the two Houses adjourn this afternoon, they will adjourn to meet on Tuesday next, the 16th inst., at 10 o'clock, A. M. Adjournment.

Adopted at Dover, January 10, 1866.

CHAPTER 73.

Joint Resolution directing the Secretary of State to report all orders given by him and by the Governor, for Printing

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State be and is hereby directed to furnish this General Assembly a report of all orders given by him for printing, by joint resolution or otherwise, and also all orders given as aforesaid by his Excellency, the Governor. Secretary of State to report orders for printing.

Adopted at Dover, January 23, 1866.

RESOLUTIONS.

CHAPTER 74.

Joint Resolution referring to Committees the portion of Governor's Message on Federal Relations.

The portion of Governor's Message on Federal Relations referred to committees.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That that portion of the Governor's Message which relates to our Federal Relations be referred to a committee of three on the part of the Senate, to confer with a like committee on the part of the House, with leave to report by bill or otherwise.

Adopted at Dover, January 23, 1866.

CHAPTER 75.

Joint Resolution concerning the 12th Volume of Delaware Laws.

Preamble.

WHEREAS the Secretary of State has closed the twelfth volume of the laws of this State, and has prepared a general index thereto, in pursuance of Section 1, Chapter 4 of the Revised Statutes; Therefore, to enable him to print said index, and to cause said volume to be bound as required by law,

Secretary of State to print index and private acts.

Be it Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State be and he is hereby authorized to have said index printed, also a table of the private acts; and to cause to be bound with said index and table of private acts such number of copies of said twelfth volume (not exceeding three hundred) as he may have in his office; and if it is found on collating said volume that there is not a sufficient number of the different parts thereof to make up the number of copies of said volume aforesaid, then the Secretary of State is authorized and directed to procure from the offices of the different Prothonotaries of the State a sufficient number of copies of said parts of Volume 12 for said purpose; and if he cannot find in his office, nor procure from the offices of the Prothonotaries, a sufficient number of the pamphlet copies or parts of said Volume 12, he is hereby directed to have reprinted such parts of said volume as cannot be obtained as aforesaid, and he is hereby authorized to contract for such printing and binding.

To bind 300 copies of 12th vol.

To procure from Prothonotaries number lacking.

To reprint parts not obtained as aforesaid.

RESOLUTIONS.

And be it further Resolved, That upon the completion of said printing, and of said binding, to his acceptance, the Secretary of State shall certify to the Governor the sum due for printing and the sum due for binding; and the Governor is hereby authorized and required to draw orders on the State Treasurer in favor of the parties to whom the sums so certified are due, and the State Treasurer shall pay said orders out of any money in the Treasury not otherwise appropriated.

Printing and binding.

How paid.

And be it further Resolved, That Custis W. Wright, Secretary of State, for his services in preparing the index and table of private acts aforesaid, and for superintending the printing of the same, and the binding of said Volume 12 of the Laws of the State of Delaware, be allowed the sum of three hundred dollars; and the Governor is hereby authorized and required, upon receiving the certificate of the Secretary of State of the completion of said work, to draw an order in favor of said Custis W. Wright upon the State Treasurer for the sum of three hundred dollars, and the same shall be paid out of any moneys in the Treasury not otherwise appropriated.

Compensation of Secretary of State.

$300.

How paid.

And be it further Resolved, That when the aforesaid twelfth volume shall have been bound, the Secretary of State shall retain in his office, ten copies; and deliver to the Senate five copies, to the House of Representatives ten copies, and to the following officers in each county one copy for the use of their respective courts, viz: To the Register for the Probate of Wills and granting Letters of Administration, Register in Chancery, Clerk of the Orphans' Court, Prothonotary, and Clerk of the Peace; and the remainder he shall equally divide between the respective counties, placing them in the hands of the Prothonotaries, who are hereby authorized to sell the same at two dollars per copy, and make return thereof as the law directs.

How copies distributed.

Adopted at Dover, January 31, 1866.

CHAPTER 76.

Joint Resolution rescinding the Joint Resolution adjourning the two Houses sine die on the 1st day of February.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the joint resolution for the adjournment of the two houses on the first day of February next, adopted January 19th, be and the same is hereby rescinded, made null and void.

Joint Resolution of adjournment rescinded.

Adopted at Dover, January 31, 1866.

RESOLUTIONS.

CHAPTER 77.

Joint Resolution in relation to the revocation of the Charters of State Banks and the non-payment of taxes by Railroad and Steamboat Companies.

WHEREAS a bill is now pending before this General Assembly providing for the revocation of the charters of certain banks heretofore chartered by this State; Therefore,

State Treasurer to report banks failing to pay tax.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby requested to lay before this General Assembly at as early a day as possible, all the information in his possession respecting the failure of any of the banks chartered by this State to pay the tax due the State under their respective charters, stating such banks as have ceased to pay the said tax, and the reason assigned for such non-payment; stating distinctly whether a demand has been made by the said State Treasurer and if refusal has been made by said banks.

What to state.

Non-payment of taxes by railroad and steamboat companies.

Resolved further, That the State Treasurer is hereby requested to lay before this General Assembly whatever information may be in his possession respecting the failure of the several railroad and steamboat companies carrying passengers within this State to pay the tax imposed upon them by the act entitled, "An act to raise revenue for this State," passed August 11, 1864, stating for what time and to what amount the said tax has been paid by each of said corporations.

Adopted at Dover, February 9, 1866. *.

* Signed by the Speaker of the House.

CHAPTER 78.

Joint Resolution appointing Alexander L. Lewis to provide Stationery &c., for the next Session of the General Assembly.

A. L. Lewis authorized to purchase wood, coal, lights and stationery.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Alexander L. Lewis be and he is hereby authorized and requested to purchase the necessary coal, wood, lights and stationery for the next session of the Legislature, and the State Treasurer is hereby directed to pay to the order of the said Alexander L. Lewis the sum of one hundred dollars, to enable him to carry into effect the provisions of this resolution; and the said Alexander L. Lewis is hereby directed to present his account and vouchers to the Legislature, at its next session, for allowance.

Adopted at Dover, February 15, 1866.

RESOLUTIONS.

CHAPTER 79.

Joint Resolution to refund to Secretary of State an amount paid from Contingent Fund.

WHEREAS the Secretary of State has paid out of the funds appropriated for the contingent expenses of his office the sum of eighty-seven dollars and ninety-seven cents, to George B. Dickson, for transcribing for publication the acts and resolutions passed by the General Assembly at its session commenced on Tuesday, the third day of January, A. D. 1865, and at its adjourned session commenced on Tuesday, June 13, 1865; Therefore, Preamble.

Be it Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby directed to refund to the Secretary of State the said sum of eighty-seven dollars and ninety-seven cents, to be by him applied to the payment of the contingent expenses of his office for the present year, an account of which shall be submitted to the General Assembly at its next biennial session. State Treasurer to refund to Sec. of State, $87.90 How applied.

Adopted at Dover, February 16, 1866.

CHAPTER 80.

Joint Resolution authorizing Zadock L. Butler to take charge of the Senate Chamber and the Hall of the House of Representatives.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met,

That Zadock L. Butler be and he is hereby appointed to take charge of the Senate Chamber and the Hall of the House of Representatives of the State of Delaware, and to take care of the furniture belonging to the same. Z. L. Butler to take charge of legislative chambers.

Resolved further, That it shall be duty of the said Zadock L. Butler to pay strict attention to the proper airing of the said rooms, and to keep the furniture belonging to the same in the best condition within his power, and to strictly enforce the rules made for the regulation of the same. Duties.

Resolved further, That for the faithful performance of the duties above specified, the State Treasurer shall pay the said Zadock L. Butler the sum of forty dollars, and the duties of the Compensation.

Duties commence when

said Zadock L. Butler shall commence on the day succeeding the day of adjournment of this General Assembly, and continue till the next regular session.

Passed at Dover, February 16, 1866.

CHAPTER 81.

Joint Resolution on Federal Relations.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Reserved rights of the States.

First. That the preservation of the reserved rights of the States, under the Federal Constitution as made by the fathers of the Republic, is essential to the continuance of civil liberty and political rights in this country, and that any denial or invasion of these rights by those exercising authority under the Government of the United States, is a usurpation unwarranted by the constitution, and calculated, if not designed, to destroy the Union of the States and subvert our form of free government.

Equality of States.

Denial of representation and Federal interference with States.

Second. That all the States of the Federal Union are equal under the Constitution; that each is entitled to every right belonging to the others, and that any denial or withholding of those rights by Federal authority, either by the refusal of proper representation in the National Councils or the interference with authority properly belonging to State governments, is an assumption of power justly alarming to every friend of representative government.

Recognition of all the States.

Third. That every State which at any time heretofore constituted a part of the American Union is still a State within the Union, and that the refusal on the part of Congress to admit the Senators and Representatives of the Southern States into the National Legislature is a flagrant violation of the Constitution, and could only have emanated from a fixed purpose of the radical leaders of the dominant party in Congress to destroy free and equal government as it has heretofore existed under the Federal Union, and to substitute a consolidated despotism in its stead.

Freedman's Bureau disapproved.

Fourth. That the bills now pending before Congress, providing for the extension of the provisions of what is known as the Freedman's Bureau to States which have never been in revolt against the Federal Government, and to interfere with the administration of civil justice in the States by extending to the negro race rights and privileges for the enjoyment of which they are not prepared, either by nature or education, and which have been wisely denied

them by State Constitutions and laws, are dangerous innovations in the legislation of the country, unjust and oppressive to the white inhabitants of the States, not sanctioned by the Federal Constitution, but in derogation of its plainest provisions and calculated to lead to a conflict between State and Federal authorities.

Fifth. That the burdens of taxation, now scarcely supportable, will be so increased by these unwise, unnecessary and oppressive acts, should they become laws, as to lead to great and universal dissatisfaction and in many instances distress, calculated to alienate the feelings of the people from the Federal Government and to produce the conviction that it is the oppressor instead of the benefactor and protector of the States and the people.

Increase of taxation will alienate people from government.

Sixth. That the members of this General Assembly do hereby express their unqualified disapprobation of the bill lately passed by the lower house of Congress and now pending before the Senate, conferring upon the negroes of the District of Columbia the right of suffrage, and consider that the passage of such a law would be a lasting stigma upon the nation, tending to degrade and disgrace the free white men of this country.

Disapproval of District of Columbia negro suffrage bill.

Seventh. That the immutable laws of the Creator have affixed upon the white race ineffaceable stamps of superiority, and that all attempts to elevate the negro to the social or political equality of the white man is the result either of an unwise and wicked fanaticism or a blind and perverse infidelity, subversive of the ends for which this government was established and contrary to the doctrines and teachings of our fathers.

Superiority of white race.

Attempt to elevate the negro the result of fanaticism or infidelity.

Eighth. That in the opinion of this General Assembly the passage of such a law by Congress will be but the commencement of a system of legislation designed hereafter to be extended to the States, which, if persevered in by Congress and tolerated by the people, will ultimately degrade the free white men of this country to the level of the negro, so far as congressional action can effect this result.

Such legislation will degrade white men to the level of the negro.

Ninth. That we hereby tender to the white inhabitants of the District of Columbia our sincere and deep sympathy in this hour of their distress and attempted humiliation, and denounce the act referred to as an attempted violation of their popular rights, and contrary to their will as manifested at their recent election.

Sympathy tendered to the white men of the District of Columbia.

Tenth. That this General Assembly and the people of this State are opposed to every and all attempts on the part of the present Congress to patch over the Constitution of the United States by acts erroneously termed amendments, by which the true meaning of that heretofore sacred instrument is attempted to be perverted, obscured and falsified; and we hereby denounce all such acts heretofore passed or now pending as derogatory to the character of the nation, dangerous to civil liberty, contrary

Pretended amendments to Constitution denounced.

to the Constitution of our fathers, and disrespectful to the original framers of that instrument.

National Convention recommended.

Eleventh. That this General Assembly views with indignation and alarm the whole system of legislation now pending before Congress, designed to equalize the white with the negro race, and hereby recommend to the white people of all the States, North and South, who are opposed to extending the elective franchise to the negro, to meet at an early day in National Convention, through delegates regularly chosen, to consider their duty to themselves, to their country and to posterity, in view of the present emergency.

Approval of President Johnson's efforts to restore union, &c.

Twelfth. That this General Assembly hereby approves of every constitutional effort of President Andrew Johnson to restore the Union of the States with all their rights unimpaired, and to secure to each its just and proper representation in the legislative council of the nation; and we hereby express our further approval and commendation of his unequivocal declaration of opposition to the efforts of the present Republican Congress to foist negro suffrage upon the white inhabitants of the District of Columbia, and to its insidious designs to destroy the reserved rights of the States by extending the same objectionable provisions to them, and we cherish his expressions of attachment to and veneration for the Constitution and Government of the United States as made by Washington and his compatriots, as an earnest of his purpose to interpose the veto power wisely confided to the Executive as a protection to the people of the whole country against the mad schemes and wicked devices of the disunionists now controling Congress, whereby they would degrade and enslave the white men of the country under the hypocritical pretext of elevating and enfranchising the negro.

Veto power.

Adopted at Dover, February 16, 1866.

CHAPTER 82.

Joint Resolution adjourning General Assembly sine die.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Adjournm't of Legislature.

That this General Assembly will adjourn *sine die* on Saturday, the 17th day of February, inst., at 10 o'clock.

Adopted at Dover, February 16, 1866.

RESOLUTIONS.

CHAPTER 83.

Joint Resolution in relation to the duties of the Treasurer of this State.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby directed to report to the Governor of this State, between the first and twelfth days of December eighteen hundred and sixty-six, a detailed statement of the financial condition of the State, including the whole revenue received by him from the first day of December, eighteen hundred and sixty-five, to the first day of December, eighteen hundred and sixty-six, the sources from which he received the same, how, and to what purposes it has been applied, the sum or sums then due the State, and from whom due; and also, the whole indebtedness of the State, to whom due, and for what purposes; and also the amount at that time remaining in the treasury; to be filed in the office of the Secretary of State.

State Treasurer to report financial condition of State.

Revenue from what time.

How applied.

Indebtedness.

Where filed.

Adopted [*at Dover,*] *February* 17, 1866.

CHAPTER 84.

Joint Resolution authorizing the State Treasurer to borrow money.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized, at such time or times as he shall deem necessary, and upon a credit of not more than one year, to borrow any sum or sums not exceeding in the aggregate forty (40) thousand dollars, to be applied and used toward the payment of the expenses of the State, and that the faith of the State be and the same is hereby pledged for the payment of the said sum or sums of money so borrowed, with interest at the rate of six per centum per annum, and that the Treasurer shall receive for his services one-eighth of one per centum out of the said money so obtained.

State Treasurer to borrow money.

For what time.

Sum.

How applied.

Faith of State pledged.

Interest.

Compensation.

Adopted at Dover, February 17, 1866.

TITLES OF ACTS OF INCORPORATION

Excluded from Publication by Act of Feb. 17, 1866.

CHAPTER 85.

An Act to incorporate the Wilmington Hide and Tallow Association.

Passed at Dover, January 23, 1866.

CHAPTER 86.

An Act to incorporate the Nautilus Steamship Company of Delaware.

Passed at Dover, January 25, 1866.

CHAPTER 87.

An Act to incorporate the Delaware City Cemetery.

Passed at Dover, January 26, 1866.

CHAPTER 88.

An Act to establish "The Thoroughfare Neck Friendship Church Cemetery of Appoquinimink Hundred."

Passed at Dover, January 26, 1866.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 89.

An Act to incorporate the Isaacs' Branch Ditch Company.

Passed at Dover, January 30, 1866.

CHAPTER 90.

An Act to incorporate the Cramner and Wild Cat Ditch Company.

Passed at Dover, January 31, 1866.

CHAPTER 91.

An Act to incorporate the Newark Horse Company.

Passed at Dover, February 1, 1866.

CHAPTER 92.

An Act to incorporate the Farmers' Association of New Castle County for the detection and apprehension of horse thieves, and the recovery of stolen horses.

Passed at Dover, February 1, 1866.

CHAPTER 93.

An Act to incorporate the Christiana River Improvement Company.

Passed at Dover, February 1, 1866.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 94.

An Act to incorporate the Gravelly Run Marsh Company.

Passed at Dover, February 5, 1866.

CHAPTER 95.

An Act to incorporate the Harvey Iron Company.

Passed at Dover, February 8, 1866.

CHAPTER 96.

An Act to incorporate the Delaware Ship Building and Transportation Company.

Passed at Dover, February 14, 1866.

CHAPTER 97.

An Act to incorporate the Gum Branch Ditch Company, of Sussex County, Delaware.

Passed at Dover, February 15, 1866.

TITLES OF ACTS OF INCORPORATION.

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Passed at Dover, February 15, 1866.

TITLES OF PRIVATE ACTS.

CHAPTER 98.

An Act to enable Sinah P. Sorden to devise certain real estate.

Passed at Dover, January 19, 1866.

CHAPTER 99.

An Act to divorce Cheyney Hannum and Elizabeth Hannum from the bonds of matrimony.

Passed at Dover, January 19, 1866.

CHAPTER 100.

An Act to divorce Mary E. Evans and James W. Evans, of Sussex County, from the bonds of matrimony.

Passed at Dover, January 24, 1866.

CHAPTER 101.

An Act to divorce Elizabeth Fisher and her husband, Daniel Fisher, from the bonds of matrimony.

Passed at Dover, January 24, 1866.

TITLES OF PRIVATE ACTS.

CHAPTER 102.

An Act to vest in Comfort J. Hudson, widow of John P. Hudson, deceased, all the right and title of the State of Delaware of, in and to the distributive balance remaining in the hands of the administrator of said deceased, which remained from the proceeds of sale of the real estate after the payment of debts.

Passed at Dover, January 25, 1866.

CHAPTER 103.

An Act authorizing the laying out and making a private road in Little Creek Hundred, Sussex County.

Passed at Dover, January 25, 1866.

CHAPTER 104.

An Act authorizing William V. Coulter, of Sussex County, to construct a mill dam, and for other purposes.

Passed at Dover, January 31, 1866.

CHAPTER 105.

An Act to divorce Mary Cline from her husband, Samuel Cline.

Passed at Dover, February 1, 1866.

CHAPTER 106.

An Act to divorce Martha Jane Tatem from her husband, Allen W. Tatem.

Passed at Dover. February 1, 1866.

TITLES OF PRIVATE ACTS.

CHAPTER 107.

An Act to divorce James H. Richards and his wife, Sarah Ann Richards, from the bonds of matrimony.

Passed at Dover, February 1, 1866.

CHAPTER 108.

An Act to enable Noah Downs to locate certain vacant lands, situated in Broad Creek Hundred, Sussex County, and complete his title to the same.

Passed at Dover, February 6, 1866.

CHAPTER 109.

An Act to authorize William Huffington Cannon to cut a canal below his mill.

Passed at Dover, February 6, 1866.

CHAPTER 110.

An Act to enable George W. Carey to locate certain vacant lands, situated in Dagsborough Hundred, Sussex County, and State of Delaware, and to complete his title to the same.

Passed at Dover, February 6, 1866.

CHAPTER 111.

An Act to enable William H. Carey and Silas J. Penwell to locate certain vacant lands, situate in Broad Creek Hundred, Sussex County, and State of Delaware, and to complete their title to the same.

Passed at Dover, February 7, 1866.

TITLES OF PRIVATE ACTS.

CHAPTER 112.

An Act to enable Greensbury M. Truitt and Sarah Truitt to locate certain vacant lands, situated in Broad Creek Hundred, Sussex County, and complete their title to the same.

Passed at Dover, February 7, 1866.

CHAPTER 113.

An Act to divorce Sallie A. West and Thomas P. West, of Sussex County, from the bonds of matrimony.

Passed at Dover, February 14, 1866.

CHAPTER 114.

An Act for the sale of part of the real estate of Margaret A. Benneson, a lunatic.

Passed at Dover, February 15, 1866.

CHAPTER 115.

An Act to divorce Lurana C. Rickards, and her husband, William H. Rickards, from the bonds of matrimony.

Passed at Dover, February 16, 1866.

SECRETARY'S OFFICE,

DOVER, June 16, 1866.

In obedience to directions of Chapter 4 of the Revised Code, entitled, "Of the passing and publication of Laws and of Journals," I have collated with and corrected by the original rolls now in this office, and caused to be published this edition of the Laws of the State of Delaware, passed by the General Assembly at its adjourned session, commenced on Tuesday, the ninth day of January, A. D. 1866.

The classification of the chapters under different titles, introduced in this work, corresponds with the classification of the Revised Code.

The words between brackets throughout the work are inserted to complete the sense or correct errors in the original rolls. Words and sentences noted with asterisks are printed as they appear on the rolls.

CUSTIS W. WRIGHT,

Secretary of State.

LAWS

OF THE

STATE OF DELAWARE,

PASSED AT A SESSION

OF THE

GENERAL ASSEMBLY,

COMMENCED AND HELD AT DOVER.

ON TUESDAY, THE FIRST DAY OF JANUARY,

A. D. 1867,

AND OF THE

INDEPENDENCE OF THE UNITED STATES

THE NINETY-FIRST.

VOL. 13.--PART 2.

PUBLISHED BY AUTHORITY.
JAMES KIRK, PRINTER, DOVER, DELAWARE.
1867.

LAWS OF THE STATE OF DELAWARE.

CHAPTER 116.

DIVISION OF MURDERKILL HUNDRED.

An Act to divide Murderkill hundred, in Kent county, into two hundreds, to be called, respectively, North Murderkill hundred and South Murderkill hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Murderkill hundred, in Kent county, shall be, and the same is hereby divided into two hundreds for the purpose of holding the general and special elections, the election of Assessors and Inspectors, and for the appointment of Constables, and for such other purposes as may be necessary to constitute the respective hundreds distinct and separate hundreds, with the rights that may properly appertain to them as such. All that part of said Murderkill hundred now embraced in Murderkill North Election District shall constitute one hundred of Kent county, and shall be called and known by the name of North Murderkill hundred; and all of that part of Murderkill hundred now embraced in Murderkill South Election District, shall constitute one hundred of Kent county, and shall be called and known by the name of South Murderkill hundred, and all laws of this State that apply to hundreds in Kent county as such, shall apply and extend to the said North Murderkill hundred and the said South Murderkill hundred as separate and distinct hundreds.

Murderkill hundred, Kent county, divided into two hundreds

For what purposes divided.

Name of hundreds when divided.

SECTION 2. *Be it further enacted,* That North Murderkill hundred and South Murderkill hundred, as formed by this act, shall each have one of the Commissioners of the Levy Court and Court of Appeal, and two of the Constables which, under existing laws

Of Levy Court Commissioners and Constables.

CONCERNING LIMITS.

Murderkill hundred, as it existed before the passage of this act, was entitled to, and at the next general election in this State one Levy Court Commissioner shall be elected for each of said hundreds, and the Levy Court of Kent county, upon the expiration of the term of office of either of the Constables at present residing in North Murderkill hundred, may appoint a Constable for said North Murderkill hundred to fill such vacancy, and upon the expiration of the term of office of either of the Constables at present within the limits of South Murderkill hundred, the said Levy Court may appoint a Constable for South Murderkill hundred to fill such vacancy: *Provided,* That nothing herein contained shall be construed to apply [to], or in any way affect any Constable appointed under any special law residing within the limits of either hundred. The Levy Court aforesaid shall also appoint annually, at the term now fixed by law for the appointment of Trustees of the Poor, one Trustee of the Poor for each of the said hundreds.

Their election and appointment.

Proviso.

Each hundred to have one Trustee of the Poor.

Elections, where held.

SECTION 3. *Be it further enacted,* That all general and special elections, and all elections for Assessors and Inspectors, shall be held in the said hundreds of North and South Murderkill, at the places now designated by law for holding elections in Murderkill North Election District and in Murderkill South Election District.

Of the assessment and collection of taxes in said hundreds.

SECTION 4. *And be it further enacted,* That the assessment and collection of taxes in the said hundreds hereby formed out of what has heretofore been Murderkill hundred shall, until the next general assessment of real and personal property, be made in the same manner as heretofore, and the payment of the taxes assessed under the present valuation shall have the same effect and force in all respects as the payment of taxes has, or can have, in any hundred of the county; and the passage of this act shall in no way impair the right of any Collector to complete the collection of duplicates or assessments in his hands for collection, or which may hereafter be placed in his hands for collection, in the same manner as if this act had not been passed, but such Collector or Collectors, their executors or administrators, and the sureties of any such Collector, shall have the same powers, rights and remedies, and be under the same liabilities, to collect the taxes committed to such Collector for collection as if this [act] had not been passed.

Present Constables and Trustees of the Poor.

SECTION 5. *Be it further enacted,* That the Constables and Trustees of the Poor heretofore appointed for Murderkill [hundred] shall continue in office and act as such until their respective terms of office shall expire or become vacant.

Passed at Dover, March 20, 1867.

CONCERNING THE PUBLIC REVENUE.

CHAPTER 117.

REVENUE OF THE STATE.

An Act to raise Revenue and provide for the Current Expenses of the State Government.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That no person or persons, firm, company or corporation, without having first obtained a proper license therefor, as hereinafter provided, shall, within the limits of this State, be engaged in, prosecute, follow, or carry on any trade, business, pursuit, or occupation in this section hereinafter next mentioned, that is to say: auctioneering; foreign life insurance agency; foreign fire insurance agency; vending of goods, wares and merchandise by samples; keeping or traveling stallions or jacks for the use of mares; keeping eating-houses; taking photographs; acting as brokers; real estate agency; exhibiting circuses: practicing jugglery; selling vinous, spiritous, or malt liquors. Trades to be licensed.

SECTION 2. *And be it further enacted,* That any person or persons, firm, company, or corporation desiring to be engaged in, prosecute, follow, or carry on any trade, business, pursuit, or occupation named in the foregoing section of this act, may apply to the Clerk of the Peace of any county in this State for a proper license authorizing or empowering him, her, or them to engage in, prosecute, follow, or carry on such trade, business, pursuit, or How to obtain licenses.

occupation which he, she or they may desire to engage in, prosecute, follow, or carry on, and upon his, her, or their paying, for the use of the State, to the said Clerk of the Peace, the fee hereinafter mentioned for such license, and also the fee to the Clerk of the Peace for issuing the same, it shall be the duty of such Clerk of the Peace to issue to him, her, or them a proper license therefor.

Fees for licenses.

SECTION 3. *And be it further enacted,* That the following fee shall be paid to the Clerk of the Peace, for the use of the State, for any license to be issued by him under the provisions of this act, that is to say: for each license as an auctioneer, the sum of ten dollars; for each license as a foreign life insurance agent, the sum of twenty-five dollars; for each license as a foreign fire insurance agent, the sum of twenty-five dollars; for each license as a vendor of goods, wares and merchandise by samples, the sum of fifty dollars, unless such goods are manufactured in this State; for each license to a citizen of this State to keep or travel stallions or jacks for the use of mares, the sum of ten dollars, to a non-resident of this State, twenty dollars; for each license to keep an eating-house, the sum of twenty-five dollars; for each license to take photographs, the sum of twenty dollars; for each license to act as broker, the sum of one hundred dollars; for each license as real estate agent, the sum of fifty dollars; for each license to exhibit a circus, the sum of one hundred dollars; for every license provided for by the act passed at Dover, March 3, 1857, "regulating the sale of intoxicating liquors," each applicant therefor shall pay one hundred per cent. additional for each and every said license required in said act, and any keeper of an eating-house may take out a license authorizing him to sell vinous, spiritous, or malt liquors upon his paying to the Clerk of the Peace of his county, for the use of the State, the sum of fifty dollars.

Penalty for not taking out license.

SECTION 4. *And be it further enacted,* That if any person or persons, firm, company, or corporation shall be engaged in, prosecute, follow, or carry on, within the limits of this State, any trade, business, pursuit, or occupation named in the first section of this act, without having first obtained a proper license therefor, he, she, or they, and the individuals composing such firm or company, and each of them, and the president and directors, and each of them, of such corporation, for every such offence shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment, besides being liable to the payment of the tax, be subject to imprisonment for a term not exceeding two years, or a fine not exceeding five hundred dollars, or both, at the discretion of the court; one moiety of such fine for the use of the State, the other moiety to the use of the person who shall first give information of the fact whereby said forfeiture was incurred.

SECTION 5. *And be it further enacted,* That every person shall

be deemed an auctioneer, within the meaning of this act, whose business is to offer property for sale to the highest or best bidder. No auctioneer shall be authorized, by virtue of his license as such auctioneer, to employ any other person to act as auctioneer in his behalf, except in his own store or warehouse, or in his presence. The provisions of this act shall not apply or extend to judicial or executive officers making auction sales in pursuance of any execution, judgment, or decree of any court, nor public sales made by executors and administrators. Every person who shall procure or solicit any citizen or resident of this State to take out a policy on his or her life, or life or lives of another or others, in any company or companies not incorporated by the laws of this State, shall be deemed a foreign life insurance agent within the meaning of this act. Every person who shall procure or solicit any citizen or resident of this State to take out a policy of insurance in any fire insurance company or companies not incorporated by the laws of this State, shall be deemed a foreign fire insurance agent within the meaning of this act. Every person who shall travel from place to place within this State, procuring or soliciting orders of sale for goods, wares and merchandise, either by wholesale or retail, shall be deemed a vendor of goods, wares and merchandise by samples, unless the same be manufactured in this State within the meaning of this act. Every person who keeps, carries about, or causes to be carried about, a male horse or jack for the use of mares belonging to any citizen or resident of this State, shall be deemed a keeper of a stallion or jack for the use of mares within the meaning of this act. Every person who shall keep a place where food or refreshments of any kind, not including vinous, spiritous, or malt liquors, for the accommodation of casual visitors, and sold for consumption therein, shall be deemed the keeper of an eating-house within the meaning of this act. Every person who makes for sale photographs, ambrotypes, daguerreotypes, or pictures by the action of light, shall be deemed a taker of photographs within the meaning of this act. Every person within this State whose business is to purchase or sell stocks, coined money, bank notes, or other securities, for themselves and others, or who deal in exchanges relating to money, shall be deemed a broker within the meaning of this act. Every person whose business it is to sell or to offer for sale real estate for others, or to rent houses, stores, or other buildings, or real estate, or to collect rent for others, shall be deemed a real estate agent within the meaning of this act. Every building, tent, space, or area where feats of horsemanship, or acrobatic sports, or theatrical performances are exhibited, shall be deemed a circus within the meaning of this act. Every person who performs by sleight of hand any feat or trick, and receives pay for the exhi-

Description of the trades, businesses, pursuits, or occupations to be licensed.

bition thereof, shall be deemed a juggler within the meaning of this act.

What the licenses shall set forth.

SECTION 6. *And be it further enacted,* That in every license to be taken out under or by authority of this act, shall be contained and set forth the trade, business, pursuit, or occupation for which such license is granted, the name and place of abode of the person or persons taking out the same, and that the fee due the State therefor has been paid; and in the case of brokers, real estate agents, taking of photographs, eating-houses, selling vinous, spiritous, or malt liquors, a general description of the place at which the trade, business, pursuit, or occupation, for which such license is granted, is intended to be carried on: *Provided,* That a license granted under this act to any broker, real estate agent, photographer, proprietor of an eating-house, or seller of vinous, spiritous or malt liquors, shall not authorize the person, or persons, firm, company, or corporation to be engaged in, prosecute, follow, or carry on any trade, business, pursuit, or occupation specified in such license in any other place than that described therein: *And provided further,* That if such a house or place be duly licensed and the tenant be changed during the year, it shall be lawful for the new tenant to keep such house or place under said license until the expiration of the year for which it was granted. Where one or more persons are associated together as a firm or copartnership, and doing or carrying on any trade, business, pursuit, or occupation mentioned in the first section of this act at the same time and place, it shall not be necessary for each of the individuals composing such firm or copartnership to take out a separate license therefor, but one license may be granted in the name of the firm or copartnership. In every case where more than one of the trades, businesses, pursuits, or occupations mentioned in the first section of this act shall be pursued or carried on by the same person, or persons, firm, company, or corporation at the same time, a license must be taken out for each according to the rates prescribed by the third section of this act. Every license issued in pursuance of the provisions of this act shall bear date on the day on which it was issued, and shall continue in force one year from the date thereof and no longer. Such licenses shall be signed by the Governor of this State, and countersigned by the Secretary of State and sealed with the seal of his office. The death, resignation, or removal from office of the Governor, or [of the] Secretary of State, shall not avoid or invalidate any license issued under the provisions of this act. Every person, or persons, firm, company, or corporation, who shall procure a license under this act as an auctioneer, foreign life insurance agent, foreign fire insurance agent, vendor of goods, wares and merchandise by samples, keeper or traveler of stallions or jacks

Restriction as to the place of carrying on certain trades.

Proviso.

One license sufficient for a firm.

Otherwise when more than one trade, &c., is carried on.

Date of license.

How signed.

Licenses for certain trades authorize carrying on the same in either county.

for the use of mares, proprietors of circuses, performers of feats of jugglery, shall be authorized and empowered, during the year for which such license was granted, to exercise and carry on the trade, business, pursuit, or occupation for which the license was granted in any county of this State: *Provided*, That no such person, or persons, firm, company, or corporation shall be engaged in, prosecute, follow, or carry on such trade, business, pursuit, or occupation at more than one place at the same time: *And provided further*, That if any person or persons shall be duly licensed under this act as an auctioneer, foreign life insurance agent, foreign fire insurance [agent], vendor of goods, wares and merchandise by samples, keeper or traveler of stallions or jacks for the use of mares, proprietors of circuses, or performer of feats of jugglery, and shall die before the expiration of the year for which such license was granted, it shall be lawful for his, her, or their executors or administrators to exercise and carry on the trade, business, pursuit, or occupation for which the license was granted until the expiration of the year for which it was granted. Every person applying to any Clerk of the Peace for a license under the provisions of this act shall, in addition to the fee for the use of the State mentioned in the third section of this act, pay to such Clerk of the Peace a fee of fifty cents for issuing the same.

Proviso.

Further Proviso.

Fee to Clerk of the Peace.

SECTION 7. *And be it further enacted*, That it shall be the duty of the Secretary of State, and he is hereby directed to prepare and deliver to each Clerk of the Peace blank licenses, signed by the Governor, countersigned by the Secretary of State and sealed with the seal of his office, for each trade, business, pursuit, or occupation mentioned and enumerated in the first section of this act, and he shall keep a correct account of the same against each of the said Clerks of the Peace, and shall send a duplicate of every such entry in such account, to the Auditor of Accounts. The Auditor of Accounts shall keep an account, in the books of his office, of all blank licenses supplied to the Clerks of the Peace, by the Secretary of State, in pursuance of the provisions of this act; and all the provisions of Chapter 30 of the Revised Code of the State of Delaware, relative to the duties and powers of the Auditor of Accounts in settling the accounts of said Clerks of the Peace, and in enforcing such settlements, shall extend to and be applied to the licenses and fees to the State therefor which said Clerks of the Peace are by this act authorized and required to issue and collect.

Blank licenses to be prepared by Secretary of State.

Of the accounts kept by him.

Duplicate of the same to be sent by him to the Auditor.

Duties of the Auditor herein.

SECTION 8. *And be it further enacted*, That the Clerk of the Peace of each county in this State shall, semi-annually, on the first Tuesdays of April and October, or within three days after each of said days, plainly state, under his hand, a full and true account of all money by him received, or for which he is accountable

Semi-annual account of Clerk of the Peace of money received.

for fees for the use of the State for all licenses issued by him under the provisions of this act, and shall deposit, to the credit of the State Treasurer, in the Farmers' Bank, at the county town of his county, the full amount due on such account, and send such account to him by mail, with a certificate of such deposit thereon endorsed. A failure to state such account and make such deposit, within the time prescribed, shall, besides making him liable for the money due the State, be a misdemeanor, and upon conviction thereof by indictment he shall forfeit and pay a fine of not less than five hundred dollars, nor more than two thousand dollars, besides costs, and such conviction shall *ipso facto* work a forfeiture of his office. The condition of the official obligation of each Clerk of the Peace shall extend to the moneys collected under this act and to the duties herein required of him, and every failure to make such account, or deposit, as also a failure to put into the post office, within the time prescribed, such account, with the certificate of deposit thereon endorsed, duly addressed to the State Treasurer, shall be a breach of the condition of such official obligation.

Where he shall deposit said money.

Penalty for neglect.

Condition of the bond of Clerk of the Peace extended to moneys collected under this act.

SECTION 9. *And be it further enacted,* That it shall be the duty of every Justice of the Peace, Sheriff, Deputy Sheriff, and Constable within their respective counties, whenever he shall have knowledge that any person, or persons, firm, or company, is or are engaged in, exercising, following, or carrying on any trade, business, pursuit, or occupation mentioned in the first Section of this act, without having first obtained a license therefor as provided by this act, to make complaint, or cause complaint to be made thereof before some Justice of the Peace of his county, who shall thereupon proceed according to the provisions of Chapter 97 of the Revised Code of the State of Delaware in relation to complaints made before him in other criminal cases, and all existing provisions of law relative to misdemeanors and offences shall extend and apply to offences created by this act, so far as the same are applicable and are not inconsistent herewith. Every person exercising or carrying on any trade, business, pursuit, or occupation named in the first section of this act shall, on demand of any Justice of the Peace, Sheriff, Deputy Sheriff, Constable, or citizen within this State, produce the license therefor, and unless he shall do so it shall be presumptive evidence that he has no license.

Duty of Justices of the Peace, Sheriffs and Constables.

SECTION 10. *And be it further enacted,* That every Justice of the Peace, Sheriff, Deputy Sheriff, and Constable who shall neglect or refuse to perform the duty required of him by the next foregoing section of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall be fined at the discretion of the Court.

Penalty for neglect of duty.

CONCERNING THE PUBLIC REVENUE.

SECTION 11. *And be it further enacted,* That every person, or persons, association of individuals, or corporation who shall, within the limits of this State, be engaged in, pursue, or follow the business or occupation of insuring property against loss by fire shall, on the first Tuesday in the month of July next after the passage of this act, and on the same day annually and every year thereafter, while they shall continue in such business, pay to the State Treasurer, for the use of the State, a tax of one hundred dollars: *Provided,* That where two or more persons are associated together and carrying on the business or occupation of insuring property against loss by fire, it shall not be necessary for each of the persons composing such association to pay the said tax, but the payment thereof by such association collectively shall be sufficient.

Tax on insuring against loss by fire.

SECTION 12. *And be it further enacted,* That if any person or persons, or association of individuals, who shall be engaged in, pursue, or follow the business or occupation of insuring property against loss by fire shall refuse, fail, or neglect to pay to the State Treasurer the tax imposed by the next foregoing section of this act, within five days after the same shall become due and payable, such person or persons, or the individuals composing any such association so refusing, failing, or neglecting, besides being liable to pay the tax imposed by the next foregoing section shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall forfeit and pay a fine of not less than five hundred dollars nor more than two thousand dollars, besides costs. And if any corporation liable to the tax imposed by the next foregoing section of this act shall refuse, fail, or neglect, for the space of five days after the same shall be due and payable, to pay to the State Treasurer the tax imposed by the next foregoing section of this act, such refusal, failure, or neglect shall work a revocation of the charter of such corporation so refusing, failing, or neglecting, and the president and directors of such corporation so refusing, failing, or neglecting as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall forfeit and pay a fine of not less than five hundred dollars, nor more than two thousand dollars, besides costs, and the individual property of such president and directors shall also be liable for the payment of the tax imposed by the next foregoing section of this act. *And further,* in case of any person, or persons, company, or association of individuals as aforesaid, so refusing, failing, or neglecting to pay the tax for which he, she, or they are liable under the next foregoing section of this act, within the time appointed for the payment thereof, it shall be unlawful for him, her, or them thereafter to be engaged in, pursue, follow, or carry on the business or occupation of insur-

Penalty refusal or neglect to pay said tax.

ing property against loss by fire within this State, and if he, she, or they shall thereafter presume to engage in, pursue, follow, or carry on said business or occupation of insuring property against loss by fire within this State, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall forfeit and pay a fine of not less than five hundred dollars, nor more than two thousand dollars, besides costs.

Jurisdiction and power of the Court of Chancery upon the neglect or refusal to pay said tax.

SECTION 13. *And be it further enacted,* That the Court of Chancery shall have jurisdiction and power, and upon the application of the State Treasurer, on behalf of the State, it shall be the duty of the Chancellor to restrain, by injunction process, any breach of the next foregoing section of this act attempted to be committed by any person, or persons, company, or association of individuals by engaging in, pursuing, [or] carrying on the business or occupation of insuring property against loss by fire after a refusal, failure, or neglect to make payment to the State Treasurer of the tax imposed by section eleven of this act, within the time limited for the payment thereof. *And further,* in case of any refusal, failure, or neglect, by any corporation liable to the payment of the tax imposed by section eleven of this act to make the payment to the State Treasurer of the tax imposed by said section eleven, within the time appointed for the payment thereof, the State Treasurer shall report the fact immediately to the General Assembly, if in session, or at their next meeting, either regular or adjourned, and also to the Attorney-General whose duty it shall be to proceed without delay against the said corporation, in the proper tribunal, to carry the aforesaid revocation into effect.

Duty of State Treas. to collect said tax.

SECTION 14. *And be it further enacted,* That it shall be the duty of the State Treasurer to enforce the payment of the tax imposed by section eleven of this act, and for this purpose all the provisions of Chapter twenty-nine of the Revised Code of this State, conferring powers and duties upon that officer and his collectors, in relation to the execution of the warrant issued to him by the Auditor of Accounts for the collection of the State tax, shall be vested in and may be exercised by him and them in the collection of the tax imposed by said section eleven of this act.

Fee on marriage licenses increased.

SECTION 15. *And be it further enacted,* That the Clerk of the Peace in each county in this State shall hereafter collect, for the use of the State, from each and every person applying to him for a marriage license, the fee of four dollars in lieu of two dollars heretofore charged for the same.

SECTION 16. *And be it further enacted,* That it shall be the duty of the Secretary of State to collect, for the use of the State, in lieu of the fees now fixed by law for the same officers, the fol-

lowing fees, that is to say: from every person who shall hereafter be commissioned as Prothonotary, the sum of fifty dollars; from every person who shall hereafter be commissioned Recorder of Deeds, the sum of fifty dollars; from every person who shall hereafter be commissioned Register of Wills, the sum of fifty dollars; from every person who shall hereafter be commissioned Clerk of the Peace, the sum of fifty dollars; from every person who shall hereafter be commissioned Clerk of the Orphans' Court, the sum of twenty-five dollars; and from every person who shall hereafter receive a commission as Sheriff, including the writs of assistance, the sum of fifty dollars.

Fees on the commissions of certain public officers increased.

SECTION 17. *And be it further enacted,* That all the fines and forfeitures which shall be imposed upon any person or persons who shall be convicted of any of the misdemeanors hereinbefore mentioned, and which fines and forfeitures are not hereinbefore otherwise specially appropriated, shall go to and be for the use of the State.

Fines and forfeitures incurred under this act shall go to the State.

SECTION 18. *And be it further enacted,* That so much of the provisions of the act entitled, "An act regulating the sale of intoxicating liquors," passed March 3, 1857, and of the several amendments thereto, and so much of section eleven of Chapter 52 of the Revised Code of this State, and all other acts or parts of acts which are inconsistent with or supplied by this act be and the same are hereby repealed, made null and void.

Certain inconsistent laws repealed.

SECTION 19. *And be it further enacted,* That every license to sell vinous, spiritous, or malt liquors under this act shall be granted by the Clerk of the Peace of the county where the person desiring such license may reside, in the same manner as other licenses provided for by this act are granted, and no recommendation of the Judges of the Court of General Sessions of the Peace and Jail Delivery, or of the Grand Jury, or of any other person or persons, shall be necessary for the granting of the license to the person applying therefor.

Liquor licenses to be granted by Clerk of the Peace without recommendation.

SECTION 20. *And be it further enacted,* That one-fourth of all the money arising under any of the provisions of this act shall be for the use of the School Fund, any of the provisions of any of the sections of this act to the contrary notwithstanding.

What sum to be appropriated to school fund.

SECTION 21. *And be it further enacted,* That all persons now doing business under licenses heretofore granted shall, upon the expiration of the period for which they were granted, be allowed to take out, if desired, fractional licenses up to the first of June next ensuing after this act shall take effect.

Fractional licenses.

SECTION 22. *And be it further enacted,* That this act shall go into effect and operation on and after the first day of June next after the passage hereof.

When act shall go into effect.

SECTION 23. *And be it further enacted,* That it shall be the

Express Companies doing business in this State to transport certain papers, books, &c., free of charge.

duty of every express company doing or carrying on business in this State, to transport free of charge all books, papers and public documents that may be sent to the Governor, Secretary of State, or Librarian, for the use of the State, or that may be sent from this State for the use of any other State, or of the United States; and if any agent within this State of such express company shall presume to charge for the transportation of said books, papers and public documents, it shall not be lawful for him to collect the price of such transportation. *And further*, if any such agent shall insist upon such payment being made for such transportation, he shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictmeut he shall be fined not less than one hundred dollars, nor more than five hundred dollars, besides costs. In case any such express company shall refuse to transport free of charge such books, papers, or public documents, it shall be unlawful for such express company to follow or carry on their business within this State, and if, after the refusal of such express company, any agent or officer within this State shall continue in the employ of such express company, he shall be deemed guilty of a misdemeanor, and on conviction thereof by indictment he shall be fined not less than one hundred dollars, nor more than five hundred dollars.

Penalty in case said companies charge for such transportation.

Publication of act.

SECTION 24. *And be it further enacted*, That it shall be the duty of the Secretary of State to cause this act to be published for the space of one month in two newspapers published in New Castle county, one newspaper published in Kent county, and in one newspaper published in Sussex county.

Passed at Dover, March 22, 1867.

CHAPTER 118.

ASSESSMENTS.

An Act relating to County Assessments in New Castle County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. The Levy Court of New Castle county is hereby authorized to transfer, from the assessment lists of New Castle and

Brandywine hundreds to the assessment list of Wilmington hundred, all assessments of persons and property within the territory taken from New Castle and Brandywine hundreds and added to Wilmington hundred by Chapter 37 of the 13th Volume of the Laws of Delaware; and for this purpose the said Levy Court may require the assistance of the assessors of New Castle and Brandywine hundreds, and may summon before them any person owning real estate within said territory. Levy Court authorized to transfer assessments.

SECTION 2. No assessment of persons or property made in any hundred or part of a hundred in New Castle county, since the last general assessment in said county, shall continue in force beyond the period now fixed by law for the next general assessment of persons and property in said county. Limit to certain assessment

Passed at Dover, March 13, 1867.

CHAPTER 119.

OF COLLECTORS.

Revised Code, 28.
SEC. 1. Section 13, Chapter 12, amended.

SEC. 1. Timber and grass purchased, when taken away.

An Act to amend Chapter Twelve of the Revised Code, entitled "Of Collectors." Rev. Code, 28.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 13 of Chapter 12 of the Revised Code be amended by inserting, after the word "grass," in the ninth line, the following words: "For the period of one year from the date of sale authorized by the section to which this is an amendment and no longer." Sec. 13, Chapter 12 amended.

Passed at Dover, January 30, 1867.

CONCERNING THE PUBLIC REVENUE—OF THE LAWS.

CHAPTER 120.

OF THE COUNTY TREASURER.

Revised Code, 32.
SEC. 1. Section 2, Chapter 13, amended

SEC. 1. Penalty of the Treasurer's bond for Kent and New Castle counties increased.

Rev. Code, 32.

An Act to amend Chapter 13 of the Revised Code of the State of Delaware.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 2 of Chapter 13 of the Revised Code be and the same is hereby amended by inserting, after the word "dollars," in the third and fourth lines of said section, and before the word "with," in the fourth line of said section, the following words: "for Sussex county, and thirty thousand dollars for Kent county, and fifty thousand dollars for New Castle county."

Sec. 2, Chap. 13, amended.

Passed at Dover, February 12, 1867.

CHAPTER 121.

OF THE DISTRIBUTION OF LAWS.

Revised Code, 5, 8.
SEC. 1. Section 2 of Chapter 4 amended. Historical Society of Delaware to be furnished with copy of the Laws.

SEC. 2. Section 2 of Chapter 6 amended. Historical Society of Delaware to be furnished with copy of Judicial Reports.

Rev. Code, 5, 8.

An Act to amend Section 2 of Chapter 4, and Section 2 of Chapter 6 of the Revised Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 2 of Chapter 4 of the Revised Code be amended as follows: by inserting after "one to St. Mary's College," the words "one to the Historical Society of Delaware."

Sec. 2, Chap. 4, amended.

SECTION 2. *Be it further enacted,* That Section 2 of Chapter 6 of the Revised Code be amended by inserting after "one to Delaware College," the words "one to the Historical Society of Delaware."

Sec. 2, Chap. amended.

Passed at Dover, March 6, 1867.

CONCERNING ELECTIONS.

CHAPTER 122.

OF ELECTIONS.

Revised Code, 47, 49.
SEC. 1. Section 3, Chapter 17, stricken out.
SEC. 2. Section 36, Chapter 18, stricken out.

An Act to amend Chapter 17 *and Chapter* 18 *of the Revised Code.* Rev. Code, 47, 49.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That Chapter 17 of the Revised Code of the State of Delaware be amended by striking out the whole of the third section thereof, and insert [ing] in lieu thereof the following, to wit: Sec. 3, Chap. 17 stricken out.

"SECTION 3. No person shall be elected Assessor of a hundred unless he shall, at the time of the election, be a freeholder within such hundred and an inhabitant thereof; and no person shall be elected an Inspector of any hundred or election district where any hundred is divided into two or more election districts, unless he shall, at the time of the election, be an inhabitant of such hundred or election district." Qualifications of Assessors and Inspectors.

SECTION 2. *And be it further enacted,* That Chapter 18 of the Revised Code of the State of Delaware be amended by striking out the whole of Section 36 of said Chapter. Sec. 36 Chap. 18 stricken out.

Passed at Dover, February 6, 1867.

CHAPTER 123.

OF ELECTIONS IN WILMINGTON HUNDRED.

An Act to amend an act entitled "An act to amend the act entitled, 'A supplement to Chapter 19 *of the Revised Statutes of the State of Delaware, 'Of Elections in Wilmington hundred.'"* 11 Vol. 508.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That section one of the aforesaid act, as the same is printed in the Eleventh Volume of the Laws of this State, be and the same is hereby amended by striking out, in the ninth line of said section, the words "Odd Fellows Hall," and inserting in lieu thereof the following: "house known as the 'Felton House,' now occupied by John H. Stidham." Sec. 1, Chap. 441, amended. Place of holding elections changed.

Passed at Dover, March 7, 1867.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 124.

OF SALARIES.

An Act to increase the Salary of the Governor.

Salary of Governor increased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the annual salary of the Governor shall hereafter be two thousand dollars, to be paid as now provided by law, and to commence with the day of his inauguration.

Passed at Dover, January 14, 1867.

CHAPTER 125.

OF SALARIES.

Current Vol. 9.
SEC. 1. Section 1, Chapter 6, amended.

SEC. 1. How amended.
2. Future publications.

Current Vol 9.

An Act to amend an act entitled, "An act to amend Chapter 25 of the Revised Code, in relation to Salaries of certain Public Officers," passed at Dover, February 14, 1866.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Sec. 1, Chap. 6 amended.

SECTION 1. That the act entitled "An act to amend Chapter 25 of the Revised Code, in relation to salaries of certain public officers," passed at Dover, February 14, 1866, be amended by inserting, after the word "five," in fifth line of Section 1, the word "hundred."

How.

Future publications.

SECTION 2. That in all editions of the laws hereafter to be published, the said chapter shall be published as hereby amended.

Passed at Dover, March 13, 1867.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 126.

CLERK OF THE PEACE.

An Act in relation to the Clerk of the Peace in and for New Castle County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall be the duty of the Clerk of the Peace in and for New Castle county, and he is hereby directed and required to deposit with some suitable and proper person, resident in the City of Wilmington, a sufficient number of each and every description of licenses which by the laws of this State the Secretary of State is bound to deliver to said Clerk of the Peace.

Clerk of the Peace of N. Castle Co. required to deposit licenses with a person resident in Wilmington

SECTION 2. *And be it further enacted,* That the said Clerk of the Peace shall appoint the person with whom the deposit of licenses mentioned in the foregoing section is to be made, but the person so to be appointed shall, at the time of his appointment, and while he shall continue such depositary, be a resident of the City of Wilmington. The said Clerk of the Peace may require of the person so by him appointed, a bond or bonds with surety or sureties in such amount as the said Clerk of the Peace may require. It shall the duty of the person so appointed by the said Clerk of the Peace to issue licenses to persons applying to him therefor, in the same manner as said Clerk of the Peace might do if application for licenses had been made to him. Every person applying to the person appointed by said Clerk of the Peace for any license shall, in addition to the fee to the State, and the fee to the Clerk of the Peace, also pay to the person appointed by said Clerk of the Peace, a fee of twenty-five cents for every license issued by such person as a compensation for his services in the premises.

Said person to be appointed by Clerk of the Peace.

Where he shall reside.

To give bond.

Duties.

Compensation.

SECTION 3. *And be it further enacted,* That the said Clerk of the Peace shall be liable for all the fees to the State, which may be paid to or collected by the person to be appointed under this act, and the official obligation of said Clerk of the Peace shall extend to and embrace all the moneys due the State which may be collected by such person, or for which he is liable.

Liability of Clerk of the Peace for State fees.

SECTION 4. *And be it further enacted,* That it shall be the duty of the person so to be appointed under this act, to pay over to the said Clerk of the Peace all the moneys due to the State, and all the moneys due to said Clerk of the Peace, whenever demand

Of the liability of the person appointed as aforesaid for fees collected by him.

therefor is made upon him by said Clerk of the Peace, and in case of failure to make such payments when demanded, the said Clerk of the Peace may enforce the same by proceeding on the bond or bonds of such person against both principal and surety.

Passed at Dover, March 14, 1867.

CHAPTER 127.

JUSTICE OF THE PEACE.

An Act for the appointment of an additional Justice of the Peace in and for Sussex County, to reside at Georgetown.

Appointm'nt of additional Justice authorized.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring),* That the County of Sussex shall be entitled to one Justice of the Peace in addition to the number now allowed by law, and that he shall be appointed and continue to reside in Georgetown hundred, and in the town of Georgetown.

Where to reside.

Passed at Dover, February 6, 1867.

CHAPTER 128.

OF CONSTABLES.

Current Vol. 12.

An Act to amend Chapter 10 *of the* 13*th Volume of the Laws of Delaware.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Addition to Sec. 1, Chap. 34.

SECTION 1. That Chapter 10 of the 13th Volume of the Laws of Delaware, entitled, "An act to amend Chapter 34 of the Revised Statutes, concerning Constables," be and the same is

hereby amended by adding to the end of Section 1 of the said chapter the following, viz: "Any person who has been or shall be appointed Constable under this act, within twenty days after the passage of this amendment (if he is now appointed), or within five (5) days after his appointment (if he shall hereafter be appointed), shall give bond with sufficient surety, and which bond the Levy Court of said county shall take, approve, certify and deliver for record in like manner as is now provided by law in case of other Constables, in Chapter 34 aforesaid."

Constable to give bond. When.

Passed at Dover, March 22, 1867.

CHAPTER 129.

SEAL OF OFFICE.

An Act to authorize the Recorder of Deeds in and for Kent County to procure a new Seal of Office.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Andrew J. Wright, Esquire, Recorder of Deeds in and for Kent county, be and he is hereby authorized to procure a new seal for his office, to be made of brass or steel, of the dimensions and engraved with the same devices of the present seal, which said seal, when completed, shall be taken and deemed to be the seal of the Recorder of Deeds in and for Kent county, in the State of Delaware, and shall thereafter be fixed to all writings, papers, and records where said seal is required, and the present seal shall then be broken up and destroyed by the said Recorder.

Recorder of Deeds for Kent county to procure a new Seal of Office.

Dimensions and device of seal.

New seal to be used hereafter.

SECTION 2. *And be it enacted,* That the Levy Court of Kent county shall pay the necessary cost and expense of procuring the said new seal.

Levy Court of Kent Co. to pay costs of new seal.

Passed at Dover, January 25, 1867.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 130.

SEAL OF OFFICE.

An Act to authorize the Recorder of Deeds in and for Sussex County to procure a new Seal of Office.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Recorder of Deeds of Sussex county authorized to procure new Seal of Office.

SECTION 1. That George M. Davis, Recorder of Deeds in and for Sussex county, be and he is hereby authorized to procure a new seal, to be made of brass, of the size and engraved with the devices of the seal now in use in said office, which said seal, when completed, shall be taken, adjudged, and deemed to be the seal of the Recorder's Office in and for Sussex County, and shall thereafter be affixed to all writings, papers and copies where the seal of said office is required; and the said George M. Davis is then hereby authorized, directed and required to break up and destroy the seal of said office now in use.

Levy Court of Sussex Co. to pay cost.

SECTION 2. That the Levy Court and Court of Appeal of Sussex county shall pay the necessary cost and expenses of procuring the said new seal.

Passed at Dover, March 19, 1867.

CHAPTER 131.

INDEX TO MORTGAGES.

An Act to authorize the Recorder of Deeds, in and for Sussex county, to make a Direct and Reverse General Index to Mortgages in separate Records in the office of the Recorder of Deeds in Sussex county.

Preamble.

WHEREAS it has been represented to this General Assembly that there is no general direct and reverse index to mortgages

recorded in the office of the Recorder of Deeds in and for Sussex county, but that the said mortgages are indexed in the record for indexing the deeds in said office, making it extremely inconvenient to search for mortgages; therefore,

Recorder of Deeds for Sussex co. to make a mortgage index.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That George [M.] Davis, the present Recorder of Deeds in said county, shall make a general direct and reverse index to mortgages recorded in his office, the said indexes to be in separate records, and to be called general direct index to mortgages, and general reverse index to mortgages; and hereafter it shall be the duty of the Recorder and his successors in office to continue said general direct and reverse indexes in said books, as well as the general direct and reverse indexes to the records, in the several books from time to time prepared for recording mortgages in his office.

Recorder and successors to continue index.

Commissioners to examine indices.

SECTION 2. *And be it further enacted,* That if the said George [M.] Davis, Recorder as aforesaid, shall make indexes [as] aforesaid, then that Custis W. Wright and Edwin R. Paynter are hereby appointed commissioners, whose duty it shall be to examine said indexes after the said George [M.] Davis shall have completed them, and if they approve of the execution thereof they shall certify on the record containing the indexes aforesaid, made by the said George [M.] Davis, the same to be a true general direct and reverse index to mortgages, recorded in said office, and that then and after said certificate the said record shall become and be the indexes to said mortgages.

Compensation.

SECTION 3. *Be it further enacted as aforesaid,* That it shall and may be lawful for the Levy Court of Sussex county to make such allowances to the said George [M.] Davis, and Custis W. Wright and Edwin R. Paynter, for the services required of them by this act, as the said Levy Court may deem proper.

Passed at Dover, February 7, 1867.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 132.

SATISFACTION OF JUDGMENTS.

An Act in relation to the Judgment and Continuance Dockets of the Superior Court of Kent County, and the General Indexes to the same.

Preamble.

WHEREAS it has been represented to this General Assembly that the dockets aforesaid do not show all the satisfactions of the judgments of the said court which have been made by legal process, nor does it appear by the indexes to the said dockets whether or not judgments therein indexed are satisfied; AND WHEREAS the people of this State would be greatly benefited if their searches for liens could be made sufficient by the dockets and indexes aforesaid, without actual reference to the returns to writs issued upon such liens, or to other entries equivalent to satisfaction; therefore,

Proth'y of Kent county to ascertain what judgments have been discharged.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Prothonotary of the Superior Court of Kent county be and he is hereby authorized and required, by himself, or a deputy by him to be appointed for that purpose, to examine the records of the said court and ascertain what judgments thereof have been satisfied, or otherwise discharged, by entries of satisfaction or returns of writs; and if such satisfaction shall appear by said returns, the same to enter under the hand of such Prothonotary, or deputy, upon the record of said judgments, and also to enter upon the aforesaid indexes, at every judgment referred to, which has been satisfied by said entries, returns, or otherwise, the capital letter S.

Satisfaction, how entered.

Compensation.

SECTION 2. *And be it further enacted,* That when the said work is completed, the Levy Court of Kent county shall make, to the said Prothonotary, or deputy, as the case may be, a just and proper allowance for the same.

Proth'ys to mark satisfaction in indices.

SECTION 3. *And be it further enacted,* That hereafter it shall be the duty of the Prothonotaries in each county, when satisfaction of a judgment is made by entry, or otherwise, to write the letter S in the index opposite the names of the parties in such judgment.

Passed at Dover, March 13, 1867.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 133.

APPEARANCE DOCKET.

An Act authorizing the Prothonotary of New Castle County to copy certain records.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Prothonotary of New Castle county be and he is hereby authorized to cause to be made a true and correct copy of the appearance docket of the Superior Court, in and for said county, for the year 1857. Appearance docket, copy of to be made

SECTION 2. *And be it further enacted,* That if the said Prothonotary of the Superior Court shall copy said appearance docket as aforesaid, then that George Gray and William G. Whiteley, Esquires, be and they are hereby appointed commissioners whose duty it shall be to examine said new appearance docket, and compare it with the original after the said Prothonotary shall have completed it, and if they approve of the execution thereof, they shall certify on the record the same to be a true and correct copy; and that then, and after such certificate, the said copy shall become and be the appearance docket of the Superior Court of the State of Delaware, in and for said county, for the year A. D. 1857, and the said commissioners shall be allowed a reasonable compensation by the Levy Court of said county for their said services. Commissioners to examine copy. Compensation.

SECTION 3. *And be it further enacted,* That the said Prothonotary shall receive for his services, in copying said docket authorized by this act, a just and reasonable compensation, to be allowed by the Levy Court of New Castle county. Compensation of Prothonot'y.

Passed at Dover, February 18, 1867.

CONCERNING PUBLIC EDUCATION.

CHAPTER 134.

OF SABBATH SCHOOLS.

Rev. Code, 108.

An Act to amend Chapter 41 of the Revised Statutes of the State of Delaware.

Sec. 1, Chap. 41, amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 41 of [the] Revised Statutes of the State of Delaware be and is hereby amended as follows, to wit: by striking out the words "five hundred dollars," in line nine, Section 1 of said Chapter, and inserting in lieu thereof the words "fifty cents for each scholar in Kent and Sussex counties, or twenty cents in New Castle county."

Passed at Dover, March 20, 1867.

CHAPTER 135.

OF FREE SCHOOLS.

Rev. Code, 109.
SEC. 1. Section 13 of Chapter 42 amended.

SEC. 1. Warrant to Collector—when delivered.

An Act to amend Chapter 42 of the Revised Statutes of the State of Delaware, "Of Free Schools."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 13 of Chapter 42 of the Revised Statutes of the State of Delaware be and the same is hereby amended by inserting, immediately after the word "rate," in the ninth line of said section, the following, to wit: "*Provided,* That when any such warrant shall be directed to the Collector of any hundred in Kent county, it shall be delivered to such Collector, with a duplicate annexed, on or before the tenth day of May of the year in which it is issued, or he shall not be bound to receive it."

Warrant to collector, when delivered.

Passed at Dover, March 12, 1867.

CONCERNING PUBLIC EDUCATION.

CHAPTER 136.

DONATION OF PUBLIC LANDS.

An Act accepting the donation of Public Lands by the General Government for the benefit of Agriculture and the Mechanic Arts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State of Delaware hereby accepts the grant offered to it by the United States, as set forth and defined in the Act of Congress entitled, "An act donating public lands to the several States and Territories which may provide Colleges for the benefit of Agriculture and the Mechanic arts," said act being Chapter 130 of the Statutes of the United States, passed at the second session of the Thirty-seventh Congress, and approved by the President, July 2d, in the year one thousand eight hundred and sixty-two, upon the terms and conditions contained and set forth in said act of Congress. State accepts the grant offered by U. S. of certain public lands.

SECTION 2. *And be it further enacted,* That the Governor of this State is hereby authorized and instructed to give due notice of said acceptance to the government of the United States. Acceptance, how notified

Passed at Dover, February 7, 1867.

CHAPTER 137.

COLLEGE FOR AGRICULTURE AND MECHANIC ARTS.

An Act establishing a College for Agricultural and Mechanic Arts in this State.

WHEREAS the Legislature of this State, by a recent act, accepted the provisions of an act of Congress approved July 2, 1862, entitled, "An act donating public land to the several States Preamble.

and Territories which may provide Colleges for the benefit of Agriculture and the Mechanic Arts;" AND WHEREAS the said act of Congress renders it the duty of the State to provide the buildings, grounds and appliances necessary to carry out the objects of said act; AND WHEREAS the Board of Trustees of Delaware College have proposed to convey to the State of Delaware a joint and equal interest in the grounds, buildings, libraries, apparatus and vested funds of said College proper, upon the condition that the State shall vest the *income* to be derived from the sale of the said lands in a Board of Trustees, not more than one half of whom shall be the representatives of the State, and the remainder the representatives of the present Board, for the purpose of establishing at Newark, in connection with said College, an institution which shall meet the requirements of the act of Congress, and extend to the people of our State the benefits of its provisions; therefore

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Del. College adopted as the institution to be provided by this State in accordance with the act of Congress of July 2, 1862.

SECTION 1. That the proposition of the Board of Trustees of Delaware College be and the same is hereby accepted, and that Delaware College is adopted and established as the institution to be provided by the State of Delaware, in accordance with the provisions of the act of Congress approved July 2, 1862, entitled, "An act donating public lands to the several States and Territories which may provide Colleges for the benefit of Agriculture and the Mechanic Arts."

Scrip or Land warrants authorized to be sold.

SECTION 2. That the State Treasurer, in conjunction with the Governor of the State, and the President of the Board of Trustees of Delaware College, is hereby authorized and required to sell and assign, upon such terms and conditions as they may deem best for the interests of the State of Delaware, the whole or any part of the scrip or land warrants issued or to be issued to the State by virtue of said act of Congress.

Proceeds of sale to be invested.

SECTION 3. That the proceeds of the sale or sales aforesaid shall be invested by the said Treasurer in interest bearing bonds of this State, or of the United States, at his discretion, the principal of which bonds shall be forever held sacred for the purposes contemplated in the act of Congress aforesaid, and shall not be transferable except by a special act of the Legislature.

Agents.

SECTION 4. That the State Treasurer may perform and discharge any of the acts, trusts, or duties authorized, directed, or conferred herein, by any agent or agents by him selected and appointed by and with the consent and advice of the Governor of the State. All costs and expenses incurred in selling or assign-

Expenses.

ing the said land-scrip, or in investing the proceeds thereof, shall be allowed and paid out of any funds in the State Treasury not otherwise appropriated.

Interest on investments.

SECTION 5. That the State Treasurer shall, semi-annually, receive and pay over the interest of said bonds to the Treasurer of the Board of Trustees of Delaware College, for the purposes and on the conditions hereinafter mentioned.

To what purposes said interest shall be devoted.

SECTION 6. That the Board of Trustees of Delaware College shall devote said interest to the maintenance of such course or courses of instruction in said College as shall carry out the intent of the act of Congress aforesaid, and shall provide for the gratuitous instruction of one pupil from each hundred in the State, who shall be annually nominated to be pupils of said College, in such manner as the Legislature may prescribe. Said pupils so nominated and received shall be residents of this State, and shall be admitted into said College upon the same terms and subject to the same rules and discipline which shall apply to all other pupils of said College, with the single exception that they shall not be required to pay anything for their instruction.

Annual report of Trustees.

SECTION 7. Said Board of Trustees shall, annually, on or before the first day of February, in each and every year, make up and distribute the reports required by the fourth paragraph of the fifth section of said act of Congress.

Governor to appoint five Trustees from each county.

SECTION 8. That the Governor be and is hereby authorized to appoint five Trustees from each county of the State, to be members of the Board of Trustees of Delaware College on behalf of the State, and to fill all vacancies which may arise in such appointments, occasioned by death, resignation or otherwise, and that the present Board of Trustees of Delaware College shall fill up the remaining vacancies in said Board, in the manner and to the number prescribed in the charter of Delaware College, as well as to fill any vacancies which may hereafter arise in their number, and the joint Board of Trustees, thus reorganized, shall have the entire control and management of said institution, subject to the provisions of its charter, and the terms of the act: *Provided*, That said institution shall never be managed or conducted in the interests of any party, sect, or denomination.

Vacancies.

Proviso.

Trustees to report amendments.

SECTION 9. That the Board of Trustees of Delaware College shall report such amendments to this act, or such further acts or laws, as they may deem necessary and proper to carry out the objects contemplated by this act.

Passed at Dover, March 14, 1867.

CONCERNING PUBLIC EDUCATION.

CHAPTER 138.

OF FREE SCHOOLS.

An Act concerning the Election of School Committees in this State.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Clerk and two commissioners to be elected by ballot, when.

SECTION 1. That the school voters in each and every School District in this State, at the stated meetings to be held on the first Saturday of April next, shall elect, by ballot, in the manner set forth in Section 3 of Chapter 42 of the Revised Code of the Laws of Delaware, a Clerk to serve for the term of three years thereafter, and two Commissioners, one for the term of two years, and another for the term of one year, or in each case until a successor be chosen: *Provided,* That nothing in this act shall be construed to affect the school laws now especially applicable to the City of Wilmington, and to School Districts Nos. 45 and 46 of the town of New Castle.

Proviso.

One member of committee to be elected for three years.

SECTION 2. That at every annual meeting thereafter, the said school voters shall, as aforesaid, elect one member of the School Committee to serve for the term of three years, as a successor to the member whose term shall at that time expire according to this act, and shall likewise elect to fill all vacancies or unexpired terms occasioned by death or otherwise of any member of said committees.

Inconsistent laws repealed.

SECTION 3. That all acts or parts of acts of the General Assembly of this State, inconsistent with the provisions of this act, are hereby repealed.

Passed at Dover, February 21, 1867.

CONCERNING PUBLIC EDUCATION.

CHAPTER 139.

OF FREE SCHOOLS.

A Supplement to the act entitled, "An Act in relation to Free Schools," passed at Dover, March 3, 1857.

WHEREAS the act to which this is a supplement enables the Levy Court in the respective counties in this State to appoint commissioners to lay off additional school districts, and fails to make any provision for giving notice to the voters residing in a district so laid off of the time and place for holding the first regular meeting for the organization of such districts; therefore, Preamble.

SECTION 1. *Be it [enacted] by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That on and after the passage of this act, it shall be the duty of the persons appointed by the Levy Court to lay off districts as aforesaid, or a majority of them, to give notice in writing, at least ten days before the holding of the first regular meeting of the school voters, to be held in districts created as aforesaid, of the time and place for holding such meeting, which notice shall be posted in five of the most public places in the district. A failure to give notice as aforesaid shall in no wise affect or invalidate an organization that may be made by the school voters in such districts, *provided* that a majority of the school voters of the district be present at any meeting held without notice given as aforesaid. Notice of laying off school districts to be given. Proviso.

Passed at Dover, March 19, 1867.

CHAPTER 140.

OF FREE SCHOOLS.

An Act to authorize School District No. 21, *in New Castle county, to mortgage school property.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Lewis Weldin and Thomas Snyder, Commissioners, and John P. Hillyard, Clerk, of School District No. 21, New Castle county, Mortgage on certain school property authorized.

are hereby authorized, directed and empowered to mortgage the two story brick school house belonging to said district, and the lot or piece of ground appurtenant thereto, for a sum not exceeding two thousand dollars ($2,000), payable in yearly installments of four hundred dollars ($400) each on the first day of March in each year, together with lawful interest for the same.

Additional tax to be levied.

SECTION 2. The said commissioners and their successors in office are hereby authorized, directed and required to levy yearly, (in addition to the tax for carrying on the school directed to be levied at the stated meetings), the said sum of four hundred dollars ($400), together with the amount necessary to pay the interest on said mortgage, and the expenses of collecting said tax, and pay the same to the mortgagee, his heirs and assigns, as the same may become due and payable, according to the terms of said mortgage.

Passed at Dover, February 5, 1867.

CHAPTER 141.

OF FREE SCHOOLS.

Preamble. | SEC. 1. Taxation in District No. 78 authorized.

An Act for the relief of School District No. 78, in New Castle County.

Preamble.

WHEREAS it appears to this General Assembly that the sum now authorized by law to be levied and raised by taxation in School District No. 78, in New Castle county, is inadequate for the proper maintenance of the public school in the said district; therefore,

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Taxation in District No. 78 authorized.

SECTION 1. That it shall be lawful, from and after the passage of this act, for School District No. 78, in New Castle county, to levy and raise by taxation, yearly, any amount not exceeding the sum of eight hundred dollars ($800), for the support of the public school in said district, in the manner now provided by law.

Passed at Dover, February 13, 1867.

PUBLIC EDUCATION.—OF THE INSANE.

CHAPTER 142.

OF FREE SCHOOLS

An Act for the Relief of School District No. 53, in New Castle County.

WHEREAS it appears to this General Assembly that the sum now allowed to be levied and raised by taxation in School District No. 53, in New Castle county, is insufficient for the purposes of education in the said district; therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall be lawful, from and after the passage of this act, for School District No. 53, in New Castle county, to levy and raise by taxation, yearly, the sum of four hundred dollars ($400), in the same manner as is now provided by law for the support of the schools in said district. Taxation in District No. 53 New Castle County, authorized.

Passed at Dover, March 12, 1867.

CHAPTER 143.

OF THE INSANE.

A Supplement to Chapter 49 *of the Revised Code, entitled "Of the Insane."* Rev. Code, 137.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the following Sections be and the same are hereby enacted and added to Chapter 49 of the Revised Code, entitled "Of the Insane," and the same shall be deemed and taken to be a part of said Chapter, to wit:

SECTION 7. That any insane person in any other one of the United States, having property in this State, and a trustee or Foreign trustees.

trustees there, duly appointed, such foreign trustee or trustees shall have all the rights and powers of a trustee or trustees appointed by the Court of Chancery of this State upon filing for record in the office of the Clerk of the said Court, in either county of this State, a certificate of his or their appointment, under the seal of the Court or officer making such appointment, therein setting forth that such appointment was duly made according to the laws of such State, that such trustee or trustees have given security in due form, and the amount, and the amount of property owned by such insane person in the State wherein such trustee or trustees were appointed, and that he or they are, by the laws of such State, invested with the care and management of the estate of such insane person, with authority to receive and liability as trustee or trustees to account for the same: *Provided,* That such foreign trustee or trustees shall not be entitled to recover or receive any property or effects belonging to any such insane person, or to do any act under the laws of this State, unless it appear by said certificate, to the satisfaction of the Court of Chancery, that he or they have given security in a sum equal to the whole amount of property owned by such insane person.

Their powers.

Certificate of appointm'nt.

Proviso.

Removal of property.

SECTION 8. The Court of Chancery may authorize the trustee or trustees of any such insane person, appointed as aforesaid, to remove any property or effects belonging to any such insane person to the State wherein such trustee or trustees were duly appointed.

When property removed, the Trustee to be relieved from further accounting.

SECTION 9. That whenever it shall appear to the satisfaction of the Court of Chancery that all the property and effects in this State, belonging to any such insane person, have been removed to the State wherein such trustee or trustees were duly appointed, and have been accounted for by him or them, according to the laws of the State wherein such trustee or trustees were duly appointed, the said Court of Chancery shall have power to relieve such trustee or trustees from further accounting before the Chancellor.

Section 2 of Chapter 49, amended.

How.

SECTION 10. *And be it further enacted by the authority aforesaid,* That Section 2 of the Chapter to which this act is a supplement be and the same is hereby amended by inserting therein, after the word "recognizance," the words, "or into a bond to be taken in the name of the State;" and the said section shall be hereafter read, construed and applied as herein amended.

Passed at Dover, January 31, 1867.

OF THE GENERAL POLICE.

CHAPTER 144.

INTOXICATING LIQUORS.

A Supplement to an act entitled, "An act to amend an act entitled, 'An act regulating the sale of Intoxicating Liquors, &c.' passed at Dover, February 13, 1866. Current Vol. 19.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That every Justice of the Peace, upon complaint made by the affidavit of any person alleging any violation of any provision of the act to which this is a supplement, shall issue his warrant for the arrest of any person charged with violating the same, and upon probable cause being shown that the party charged is guilty of the offence alleged shall hold him or her to bail for their appearance at Court as in other criminal cases. Justice authorized to issue warrant, &c.

Passed at Dover, March 21, 1867.

CHAPTER 145.

PROTECTION OF SHEEP.

An Act for the Protection of Sheep in New Castle County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. It shall be the duty of the assessors of each of the several hundreds in New Castle county to which this act is made applicable, to make out an assessment list wherein he shall set Assessment of dogs in New Castle County.

down the name of each and every owner of any dog or dogs, whether male or female, and the number of such dogs belonging to each owner thereof, and to make return of said list to the Levy Court of said county, on the first Tuesday of February in each year; and said Levy Court shall have power to make additions to and corrections of said lists at any time before the first day of April; and said Levy Court shall, on or before the first Tuesday of April, in every year, cause to be issued to the collector of each hundred to which this act is made applicable, a duplicate of the assessment list of dogs, in the hundred of which he is collector, transcribed and certified by the Clerk of the Peace.

Assessment List, when and where returned.

Additions and corrections, how made.

Duplicate List.

Tax on dogs—who to collect the same.

SECTION 2. The collectors of the several hundreds to which this act is applicable, upon the receipt of said lists of dogs, shall proceed to collect from the several owners thereof the sum of fifty cents for each male dog owned by said owners respectively, and two dollars for each female dog; but if any person or persons shall be the owner or owners of more than one male dog, he, she, or they shall be liable to pay one dollar for each additional male dog owned by him, her, or them. And in the collection of said tax the said collectors shall proceed in the same manner and have all the powers of collectors of county taxes.

Person that harbors a dog deemed owner.

SECTION 3. Any person who shall harbor any dog or dogs, whether male or female, shall be deemed and taken by the assessor aforesaid to be the owner thereof.

Collectors to pay to County Treasurer one-third of tax collected.

SECTION 4. Each of said collectors shall pay to the County Treasurer of New Castle county, on or before the first day of July next, after the receipt of said list of dogs as aforesaid, the one-third part of the whole amount of the tax which, by this act, he is required to collect, and shall also, whenever he shall have funds in his hands, arising from the remaining two-thirds part of said tax, pay to any person or persons residing in New Castle county, the owner or owners of any sheep or lambs which shall have been killed, injured or destroyed by any dog or dogs in the hundred for which he is collector, at any time after the first Tuesday in March next, before his receipt of said list of dogs as aforesaid, a sum not exceeding five dollars for each sheep, and not exceeding three dollars for each lamb killed, injured or destroyed as aforesaid: *Provided,* That such owner or owners, immediately upon the loss or injury of such sheep or lambs, shall notify three disinterested farmers, residing in the hundred where such loss or injury may have occurred, to view such sheep or lambs, and appraise the same, and shall present to said collector a certificate, signed by two or more of said farmers, certifying the number and value of the sheep or lambs so killed, injured or destroyed: *And provided further,* That nothing in this act shall entitle any

Payment to owner of sheep or lambs killed by dogs.

Sheep or lambs killed to be appraised.

person to receive compensation for any sheep or lambs which may be killed, injured or destroyed by his or her own dog or dogs. It shall be the duty of the collector, whenever he shall pay any sum of money upon any such certificate, to take the receipt of said owner or owners thereon, and the same shall be his voucher for the amount so paid by him. And if there shall not be sufficient money in the hands of the collector to pay the demand of such owner or owners at the time of the presentation to him of such certificate, he shall note upon said certificate the time of its presentation, and such certificate shall have priority, according to the date of presentation, whenever funds shall come into the collector's hands applicable thereto.

Persons not to receive compensation whose sheep are destroyed by their own dogs.

Receipt of owner.

Priority of certificate.

SECTION 5. Each of said collectors, on the first Tuesday in March next after his receipt of said list of dogs as aforesaid, shall render to the Levy Court of New Castle county a true account of all taxes it was his duty to collect by virtue of this act, and of all payments and disbursements thereof, and of all delinquents; and he shall, within ten days thereafter, pay over to the School Commissioners of the respective school districts of his hundred, in equal portions to each of said districts, any balance of said funds remaining in his hands, and the receipt or receipts of said School Commissioners shall be his voucher or vouchers for the amount or amounts so paid.

Collectors to account with Levy Court.

SECTION 6. For any neglect or dereliction of duty under this act each of said collectors shall be liable on his official bond.

Liability for neglect of duty.

SECTION 7. The assessors shall be entitled to receive for each dog, whether male or female, assessed by them respectively, the sum of ten cents. The collectors shall be entitled to receive ten per cent. on all moneys collected and disbursed by them respectively as aforesaid. All the expenses of levying, assessing, collecting and disbursing the aforesaid tax shall be paid by said Levy Court out of the one-third part thereof, payable to the County Treasurer as aforesaid, and no part of said expenses shall be deducted or paid from the aforesaid remaining two-thirds part of said tax.

Compensation of Assessors and Collectors.

SECTION 8. It shall be lawful for any person to kill any dog which shall not be on the assessment list, and may be wandering at large without an owner.

Lawful to kill dogs not assessed.

SECTION 9. All persons owning dogs which may be assessed as aforesaid, shall have property in the same, and be entitled to sue for and recover any damages that may accrue in consequence of the loss or injury thereof: *Provided however*, That if the owner of any dog which may be assessed as aforesaid, shall neglect or refuse to pay the tax on the same, within ten days after demand thereof made by the collector, such collector may lawfully kill

Property in dogs.

such dog, and said owner shall, notwithstanding, continue liable for the payment of said tax as aforesaid: *And provided further*, That it shall be lawful for any person to kill any dog caught in the act of killing or worrying sheep or lambs.

Where the acts applies.

SECTION 10. The foregoing provisions of this act shall be applicable to the whole of New Castle county, except Wilmington hundred.

Sec. 10, Chap 51 Rev. Code amended.

SECTION 11. The 10th Section of Chapter 51 of the Revised Code is hereby amended by striking out all of said section after the word "dog," in the 4th line of said section.

Certain acts repealed.

SECTION 12. The act entitled, "An act for the protection of sheep in certain parts of New Castle and Kent counties," passed February 7th, 1862, and the amendment thereof entitled, "An act to amend Chapter 229 of the Statutes at Large of the State of Delaware," passed February 12, 1863, are hereby repealed: *Provided however*, That they shall be and remain in force so far as they relate to the collection, payment, and disbursement of the tax on dogs, levied and assessed by virtue thereof prior to the year 1867.

Assessment list for the year 1867 to remain in force.

SECTION 13. The assessment lists of dogs, for the year 1867, which, before the passage of this act, have been made and returned by the Assessors to the Levy Court of New Castle county, shall have the same force and effect as if made and returned to said Court by virtue of and in conformity with the provisions of the first section of this act.

Passed at Dover, March 5, 1867.

CHAPTER 146.

ESTRAYS.

An Act to Prevent Certain Animals Running at Large within certain limits in School District No. 13, *of Kent County.*

Certain animals not to run at large within certain limits of School District No. 13, Kent County

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall not be lawful for any horse, or animal of the horse kind, or cattle, or animal of the cattle kind, to run at large within the following limits of School District No. 13, of Kent County, to

wit: beginning at the bridge over St. Jones' Creek, on the road leading from Dover to Smyrna, thence running with said road until it strikes the road leading to Cowgill's Corner, thence with said road until it strikes Little Creek Bridge, thence down said Little Creek until it strikes Morgan's Branch, thence up said Morgan's Branch until it strikes the dividing line between Outten L. Heverin and Dr. J. F. Baker, thence with said line until it strikes the line of Mrs. Elizabeth Wilds, thence running with the dividing line between the said Mrs. Elizabeth Wilds, Outten L. Heverin and Jackson Lafferty until it strikes the public road known as the "Lafferty Road," thence with said road until it strikes the line of William Dyer and Jackson Lafferty, thence with the line of said Dyer and Lafferty, line of William Parvis, and line of the heirs of Lemuel Reed until it strikes the line of Daniel C. Hoffecker, thence with the line of lands of said Daniel C. Hoffecker, and the line of lands of the heirs of Robert Mitchell until it strikes the line of other lands of Dr. J. F. Baker, thence with the line of lands of said Daniel C. Hoffecker until it strikes the waters of St. Jones' Creek aforesaid, thence up said St. Jones' Creek to the place of beginning.

SECTION 2. *And be it further enacted,* That any person or inhabitant of the lands embraced within the limits prescribed in Section 1 of this act, or any other person wilfully suffering animals of the horse or cow kind to run at large within the limits prescribed as aforesaid, shall be liable to a penalty of one dollar per day for each and every day such animal or animals do so run at large, to be recovered by suit before any Justice of the Peace of Kent County made by any party interested: one-half of said penalty to be paid to the prosecutor, and the other half to the School Commissioners of said School District No. 13, of Kent County; and the owner or holder of such animal or animals running at large within the limits aforesaid, shall also be held liable for all damages committed by said animals, to be recovered in like manner for the benefit of the damaged party: *Provided,* said penalty or damages be sued for within twenty days after each transgression or trespass. Penalty. Proviso.

SECTION 3. *And be it further enacted,* That nothing in this act shall be construed to interfere with or prevent parties from proceeding with such animals, as provided in the laws concerning strays. Act, how construed.

Passed at Dover, March 8, 1867.

OF THE GENERAL POLICE.

CHAPTER 147.

ESTRAYS.

Current Vol. 24.

SEC. 8. At certain time cattle not to run at large on public roads in Brandywine Hd.

Current Vol. 24. *A Supplement to the act entitled "An Act to restrict certain animals from running at large in Brandywine Hundred."*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That an additional section be added to Chapter 25 of 13th Vol., part 1st, concerning estrays, as follows:

At certain time cattle not to run at large on public roads in Brandywine Hundred.

"SECTION 8. It shall not be lawful for any animal of the cattle kind to run at large on the public roads of Brandywine Hundred, between the first day of December and the fifteenth day of April, under the same penalty as provided for in Section 5 (five) in said chapter."

Passed at Dover, March 20, 1867.

CHAPTER 148.

CONCERNING ROADS AND BRIDGES.

Revised Code, 168.
SEC. 1. Section 14 of Chapter 60, amended.

SEC. 1. Pay of Overseers increased.

Rev. Code, 168. *An Act to amend Section* 14 *of Chapter* 60 *of the Revised Code, in regard to the Compensation of Road Commissioners in New Castle county.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Section 14, of Chap. 60, amended.

Pay of overseers increased

SECTION 1. That Section 14 of Chapter 60 of the Revised Code be and the same is hereby amended by striking out of said section the words "one dollar and twenty-five cents," and inserting in lieu thereof the words "two dollars," and that in copies of the said Revised Code hereafter to be printed the said Section 14 shall be printed as hereby amended.

Passed at Dover, March 13, 1867.

OF THE GENERAL POLICE.

CHAPTER 149.

BRIDGE OVER CHRISTIANA RIVER.

An Act authorizing the Construction of a Drawbridge over the Christiana River, at a point at or near Third Street, in the City of Wilmington.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Levy Court and Court of Appeal of New Castle county are hereby authorized and empowered to build and erect, or cause to be built and erected, a good and sufficient drawbridge over the River Christiana, to extend from a point at or near the foot of Third Street, in the City of Wilmington, so as to cross said river at right angles with the channel thereof, to a point on the opposite side of the said river. The abutments of the said bridge shall not extend into the waters of the said river beyond the regulation lines of the harbor of Wilmington for wharves, as established by the ordinance of the said city. The said bridge shall not be of a less continuous width than eighteen feet, and there shall be constructed therein a draw not less than sixty-four feet and six inches in length, so as to leave, when open, a free and unobstructed passage of that width for vessels, and shall be placed over the deepest channel of the said river. The said draw shall, at all times, be under the charge and care of a bridge-keeper, who shall, on the approach of any vessel or vessels, (excepting vessels without masts, which can safely pass under the said draw without danger of collision to themselves or to their cargo,) promptly draw and open the same, so as to permit the passage and re-passage, without let or hindrance, of any and every vessel whatsoever, without charge or costs to any such vessel for opening or closing the said draw.

Drawbridge over the Christiana River authorized.

Description of bridge and draw.

Draw to be under charge of bridge-keeper.

SECTION 2. *Be it further enacted by the authority aforesaid,* The said bridge when erected and built shall be deemed and taken as a public bridge and highway, subject to all the laws of this State in relation thereto, and shall be supported, maintained and repaired as other public bridges are supported, maintained and repaired by said county.

When completed, to be a public bridge.

SECTION 3. *Be it further enacted,* That the Levy Court of New Castle county shall not make any appropriation for the erection or construction of said bridge until the whole amount of the estimated costs of such construction shall have been raised by vol-

Whole am't of cost to be raised by voluntary subscription

untary subscription and paid, or secured to be paid, to the order of the said Levy Court for the purpose of erecting said bridge, said estimate of costs to be made by a competent and disinterested bridge-builder and subject to the approval of the said Court.

Passed at Dover, March 20, 1867.

CHAPTER 150.

BRIDGE OVER BRANDYWINE CREEK.

An Act authorizing the Levy Court of New Castle county to construct a bridge over the Brandywine Creek, at a point between Seventh and Thirteenth Streets, in the City of Wilmington.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Levy Court of New Castle County authorized to make bridge over Brandywine creek.

SECTION 1. That the Levy Court of New Castle county, at their meeting in March, instant, or as soon as may be, shall have authority to provide for the making and erecting a good and sufficient bridge over the Brandywine creek, at such point between Seventh and Thirteenth Streets, in the City of Wilmington, (including said streets,) as shall hereafter be determined upon and designated by the City Council of said city.

When erected, to be a public bridge.

SECTION 2. Any bridge which shall be erected in pursuance of this act, shall be a public bridge free from toll, shall be of the same breadth and sufficiently railed in as other public bridges within the same county are directed to be by the laws of this State, and in like manner shall be afterwards supported and maintained and the expenses thereof shall be raised as other county rates and levies are by law.

Draw.

SECTION 3. The bridge so authorized to be made and erected shall be constructed with a draw or platform, so constructed as to turn or roll off, or be raised up for the free and convenient passage to and fro of all vessels navigating the said creek, which

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shall be kept in good order and repair, and drawn off, raised, turned or rolled off, whenever required for the passage of boats and vessels, by a tender or keeper, for that purpose to be appointed, provided and paid by the said Levy Court of New Castle county. And if the keeper, tender, or person having the care of the said bridge and draw, or platform, shall, at any time, unreasonably neglect or refuse to give good and faithful attendance at the said draw or platform, or to raise, roll, or turn it off, so as to permit the passage, free from toll, of any boat or vessel not otherwise able to pass, or having raised or turned off the said draw or platform, shall unreasonably keep it raised or turned off so as unduly to impede or hinder the free passage to and fro of any person or persons waiting and desiring to cross said bridge, he shall, for every such offence, forfeit and pay to the person or persons aggrieved, for every fifteen minutes he or she, or his or her boat or vessel shall be detained by the default or neglect of the party or parties aforesaid, the sum of five dollars, to be deducted and paid out of his or their salary by the said Levy Court, or recovered as debts of the same amount are recoverable by the laws of this State.

Keeper. Pay of.

Penalty for neglect of duty.

SECTION 4. If it be necessary, in carrying this act into effect, to take, occupy, or enter upon any land or property, not public, for the purpose of locating or erecting said bridge, or of going to or from the place of location thereof, before its construction for the purposes thereof, or to or from the said bridge when constructed, such property or land may be taken, occupied, or entered upon for such purposes, and if the amount of compensation therefor be not waived or amicably arranged by the owners thereof and the said Levy Court, so much of the said property or lands as shall be required for the purposes aforesaid may be condemned and taken therefor by the same proceedings as are provided by Section 23 of Chapter 376 of the laws of this State entitled, An act to amend the Charter of the City of Wilmington, for assessing damages in the case of extending, widening, laying out, or opening streets, except that in assessing damages for the taking of lands for the location or erecting of a bridge, the commissioners shall issue, upon the written application of two or more of the Levy Court Commissioners, one of whom shall be the commissioner, for the time being, for the City of Wilmington.* Any land required for a road, way, or street, leading to and from said bridge, may be condemned and taken for public use by the Mayor and Council of Wilmington, in the manner prescribed in and by the said hereinbefore mentioned act.

Condemnation of land or property.

* So in enrolled bill.

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Estimated costs of construction to be raised by voluntary subscription.

SECTION 5. The Levy Court of New Castle county shall not make any appropriation for the erection or construction of said bridge until the whole amount of the estimated cost of such construction shall have been raised by voluntary subscription and paid, or secured to be paid, to the order of the said Levy Court, for the purpose of erecting said bridge; said estimate of costs to be made by a competent and disinterested bridge-builder and subject to the approval of the said Court.

Passed at Dover, March 20, 1867.

CHAPTER 151.

BRIDGE OVER BROAD CREEK.

11 Vol. 53.

11 Volume, 53.

An additional Supplement to an act entitled "An Act to provide for the erection of a Public Bridge across Broad Creek, at the town of Laurel, in the County of Sussex."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Levy Court of Sussex co. authorized to make a bridge over Broad creek.

SECTION 1. That the Levy Court and Court of Appeals in and for Sussex County be, and they are hereby authorized, empowered and directed, at their session in March next, or as soon thereafter as practicable, to provide for the making, construction and erection of a good and sufficient bridge over the Broad Creek at what is known as the "Old Wading Place," at Laurel, Sussex County, with good and sufficient abutments and causeways.

When completed to be a public bridge.

SECTION 2. Any bridge which shall be erected in pursuance of this act shall be a public bridge, of the same breadth and sufficiently railed in as other public bridges within the same county are directed to be by the laws of this State, and in like manner shall be afterwards supported and maintained, and the expenses thereof shall be raised as other county rates and levies *are by law.*

REGULATIONS CONCERNING TRADE.

SECTION 3. If it be necessary in carrying out this act, to take, occupy, or enter upon any land or property not public, for the purpose of locating or erecting said bridge, or of going to or from the place of location thereof before its construction for the purposes thereof, or to or from said bridge when constructed, such property or land may be taken, occupied, or entered upon for such purposes; and if the amount of compensation therefor be not waived or amicably arranged by the owners thereof and the Levy Court, so much of the said property or lands as shall be required for the purposes as aforesaid may be condemned and taken therefor by the same proceedings and in the same manner as are provided by the laws of this State in similar cases. Condemnation of land or property.

Passed at Dover, March 11, 1867.

CHAPTER 152.

ANCHORING IN DEEP HOLE, BROADKILN CREEK.

An Act concerning Vessels anchoring in the "Deep Hole" at or near the mouth of Broadkiln Creek.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That whenever any captain or commander of a vessel shall anchor any vessel under his charge within the limits of the place known as the "Deep Hole," just below the mouth of Broadkiln Creek, in Sussex County, and whenever, if by reason of the anchoring of said vessel in said place the said vessel so anchoring as aforesaid be injured by collision with another vessel, the captain or commander of the vessel so anchoring shall be held liable as for gross negligence, and shall pay to the owner or owners of the vessel suffering such injury all the actual damages sustained, with costs of suit, to be recovered by an action of trespass on the case. Captain anchoring vessel in Deep Hole liable for injuries done said vessel in case of collision.

Owner of vessel anchoring in Deep Hole liable for injuries done to other vessels in case of collision.

SECTION 2. *And be it further enacted by the authority aforesaid,* That whenever by reason of the anchoring of any vessel in said place any other vessel is injured by collision with the vessel so anchoring aforesaid, the owner or owners of the said vessel so anchoring as aforesaid, shall be held liable to the owner or owners of the vessel so injured as aforesaid, as for gross negligence, and shall pay to the owner or owners of the vessel suffering such injury all the actual damages sustained, with costs of suit, to be recovered by an action of trespass on the case.

Passed at Dover, March 20, 1867.

CHAPTER 153.

MURDERKILL CREEK.

An Act in Relation to Murderkill Creek.

Commissioners appointed to stake off channel of Murderkill Creek.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Captains William Maxon, Andrew Maxon and John Artist be and they are hereby appointed commissioners to designate and stake off the channel or channels of Murderkill Creek at its mouth, and for that purpose they, or a majority of them, are hereby authorized and empowered to settle, plant and imbed, on either or both sides of the channel or channels of said creek, suitable and proper stakes, and to extend the same to such distances in the Delaware Bay as may be necessary for the safe navigation of said creek; and they, or a majority of them, are hereby authorized to renew, change and alter the stakes aforesaid from time to time as may become necessary for the purpose of pointing out and designating the channel or channels of said creek.

Penalty for destroying or removing stakes.

SECTION 2. *Be it enacted as aforesaid,* That if any person or persons shall wilfully destroy or remove any of the stakes settled and planted by and under the authority of this act, such person or persons so removing or destroying the same shall be deemed

guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay to the State a fine of twenty dollars for each stake so by him or her removed.

Passed at Dover, March 8, 1867.

CHAPTER 154.

INDIAN MEAL.

An Act to Regulate the Selling of Indian Meal.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever Indian Corn Meal shall be sold by the bushel, and no special agreement as to the measurement or weight thereof shall be made by the parties, the bushel, if sifted, shall consist of forty-four pounds, and if unsifted the bushel shall consist of forty-eight pounds.

Number of pounds bushel of Indian Meal shall consist of.

Passed at Dover, March 19, 1867.

CHAPTER 155.

OF PRINCIPAL AND SURETY.

An Act to add to Chapter 65 *of the Revised Code.*

Rev. Code, 186.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That wherever one or more of several co-debtors or co-sureties for the payment of a debt shall pay, or shall have paid to the creditor or

Co-debtor or co-sureties paying a debt entitled to transfer.

creditors the sum due, including the costs, if any, that may have been incurred by him or them, the person or persons so paying, provided the amount paid shall exceed his or their proportion of liability for the demand, shall be entitled to have a transfer of the creditor or creditors' securities for the payment of the said debt, whatever the nature of such securities may be, to enable him or them to obtain contribution from the others, liable with himself or themselves; such transfer may be by endorsement of use as well as by more formal act. When such transfer is made, the transferee or transferees shall be entitled to and shall have in his or their own name or names as such, or by and in the name of such creditor or creditors, for his or their own use as transferee or transferees, all and singular the remedy or remedies against the other debtor or debtors, surety or sureties which the creditor or creditors could have; and no such payment shall in any wise operate to discharge, impair, or otherwise affect the securities held by the creditor or creditors to the prejudice of the debtor or debtors, surety or sureties, so paying as aforesaid; nor shall any release of such co-debtor or co-debtors, co-surety or co-sureties, or entry of satisfaction upon any lien against him or them, operate in any respect as a payment or discharge of the demand itself of any of the securities therefor as against the other parties originally bound, to the end that such co-debtor or co-debtors, co-surety or co-sureties may recover by the use of the creditor or creditors' means or remedies the proportion of said demand which his co-debtor or co-debtors, co-surety or co-sureties ought to pay according to law and equity: *Provided however*, That the transfer to be made by the creditor or creditors shall not enable the transferee or transferees to take any legal proceedings against the co-debtor or co-debtors, co-surety or co-sureties, unless such transferee or transferees, or some creditable person for him or them, shall first file, in the office of the prothonotary or magistrate of the county where legal proceedings are contemplated to be taken, an affidavit, setting forth the amount which he claims his or their co-debtor or co-debtors, co-surety or co-sureties is or are bound to contribute on account of such co-indebtment or co-suretyship, and such amount shall be indorsed by the prothonotary or magistrate upon the process issued.

Transfer may be by endorsement

Remedies of Transferee.

Effect of payment.

Affidavit of amount claimed, &c., to be filed.

Future publications.

SECTION 2. *And be it further enacted*, That in any edition of the laws hereafter to be published, the foregoing shall be incorporated with Chapter 65 of the Revised Code, with the proper enumeration of sections.

Passed at Dover, February 20, 1867.

OF TITLES TO REAL PROPERTY.

CHAPTER 156.

RECORDING DEEDS.

A further additional Supplement to the act entitled, "An Act to extend the time for Recording Deeds."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all deeds or letters of attorney, concerning lands, tenements, or hereditaments, sealed and delivered on or before the first day of January, one thousand eight hundred and sixty-seven, first being acknowledged or proved and the acknowledgment or proof certified according to the laws of this State in force at the time when such acknowledgment or proof was made, may, with the certificate of the acknowledgment or proof, and all endorsements and annexations, be recorded in the office for recording of deeds in the county wherein such lands, tenements and hereditaments, or any part thereof, are situated, if lodged in such office on or before the first day of January, in the year of our Lord one thousand eight hundred and sixty-nine; and the said record, or a copy thereof, shall be sufficient evidence; and from and after the first day of January, in the year of our Lord one thousand eight hundred and sixty-nine, no deed, or letter of attorney, sealed before the first day of January, in the year of our Lord one thousand eight hundred and sixty-seven, shall be recorded.

Time for recording deeds extended to 1869.

***Passed at Dover, January* 10, 1867.**

CHAPTER 157.

PARTITION OF INTESTATE LANDS.

Current Volume, 26.
SEC. 1. Section added.

SEC. 1. Proceeding to assign dower authorized in vacation.
Future publications.

An Act to amend the act entitled, "An Act to authorize proceedings for partition of Intestate Lands to be begun in vacation."

Current vol 26.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following be added as an additional section to said act, [viz:]

Sec. added.

OF TITLES TO REAL PROPERTY.

Proceedings to assign dower authorized in vacation.

"SECTION 2. *And be it further enacted,* That proceedings for the assignment of dower alone may be begun in vacation, and the necessary orders and proceedings had thereupon, as in the cases mentioned in the preceding section."

Future publications.

In any edition of the laws hereafter to be printed, this section shall be added to the original act.

Passed at Dover, January 24, 1867.

CHAPTER 158.

OF JOINT ESTATES AND PARTITION.

Rev. Code, 286.

A Supplement to Chapter 86 *of the Revised Code, "Of Joint Estates and Partition."*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the following sections be and the same are hereby enacted and added to Chapter 86 of the Revised Code, entitled "Of Joint Estates and Partition," and the same shall hereafter be deemed and taken to be a part of said Chapter, to wit:

Chancellor may order an appearance before him in vacation.

"SECTION 19. The Chancellor shall have power at his discretion, in making an order in any case pursuant to Section 9 of this Chapter, for the appearance of a party having no known place of abode within the county, and who can not be found personally, to order such appearance to be before him in vacation, instead of in term, at a time and place in the order to be appointed; and if the parties subject to such order shall not appear, according to the direction thereof, or appearing, shall not show sufficient cause to the contrary, the Chancellor may, upon proof that service or publication has been made of such order as by the same shall have been directed, make and cause to be entered, upon the re-

cord of the Court, a decree for partition and an order for the issuing of a commission pursuant to Section 10 of this Chapter, returnable at the next ensuing term of the Court.

Order for partition may be returned to Chancellor in vacation.

SECTION 20. The Chancellor shall have authority at his discretion, upon the application of all the parties to a proceeding in partition, to make an order for partition, returnable to himself, at chambers, in vacation, and if, upon a return of such order it shall appear that no partition of the premises has been made, and such return be approved, an order for a sale of the premises may thereupon be made, to be returnable at the ensuing term of the Court. If, upon such return, it shall appear that partition of the premises has been made, such partition shall not be approved, or further action thereupon be had, except in term. Any order for partition now pending may, upon being duly executed, be returned to the Chancellor in vacation, and if, upon such return, it shall appear that no partition of the premises has been made, and the same be approved, the Chancellor may, upon the application of all the parties entitled, make an order for the sale of the premises, returnable at the next ensuing term. An infant may join in any application under this section by a guardian *ad litem.*

Order of sale.

Infant may join in application by guardian.

Proceedings in vacation.

SECTION 21. A decree for partition upon the petition of all the parties entitled, pursuant to Section 13 of this Chapter, may be made and entered in vacation as well as in term.

Of the title of purchaser under sale.

SECTION 22. A sale of any lands, tenements and hereditaments, pursuant to the provisions of Section 14 of this Chapter, shall pass to the purchaser thereof a title, free and discharged from all claims by virtue of any estate or interest in dower or by the curtesy in any undivided share of a joint tenant or tenant in common: *Provided,* That the person entitled to such interest at the filing of the petition for partition shall have been a party to the proceeding. The Chancellor shall have authority to make all such orders touching the investment and disposal of the proceeds of sale of any share of the premises sold which may be necessary to secure to a person having a right of dower or curtesy in such share an equivalent interest in the proceeds of sale.

Proviso.

Orders of investment, &c.

Decree for partition of lands, &c., derived by different titles.

SECTION 23. The Chancellor shall have authority to make a decree for partition in one proceeding under this Chapter, of several tracts or parcels of land and premises held by the same persons as joint tenants or tenants in common, although said several tracts or parcels may have been derived by different titles, and although any one or more of the tenants may not hold a like share, proportion, or interest in all of the said several tracts or parcels. In such case it shall be competent for commissioners appointed under Section 10 of this Chapter to return a partition of a part of the lands and premises embraced in said proceeding,

Return of Commissioners in such cases.

and to return the residue of the same without partition, and further proceedings shall be in accordance with the return so made. The Chancellor may vary the terms of the commission as may be necessary to adapt it to cases contemplated by this Section.

Chancellor may vary terms of commission.

Passed at Dover, January 18, 1867.

CHAPTER 159.

SETTLEMENTS AND ACCOUNTS TO BE RECORDED

An Act requiring the Registers of Wills in and for the several Counties of the State to record Settlements and Accounts of Executors, Administrators and Guardians passed by them, also to have the same properly indexed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Registers of Wills, in and for the several counties of this State, from and after the passage of this act, shall record in their offices all accounts and settlements of executors, administrators and guardians, as the same shall be passed by them.

Accounts of executors, administrators and guardians to be recorded.

SECTION 2. *And be it further enacted,* That the Registers aforesaid are hereby directed and empowered to procure suitable and uniform books, in which they shall record the accounts and settlements aforesaid; also index books for the same, in which they shall keep a direct and indirect alphabetical index of all such settlements and accounts.

Registers to procure books.

SECTION 3. *And be it further enacted,* That the Levy Courts of the several counties of this State shall pay the cost of the aforesaid books of record and index, together with the just and reasonable expenses of the Registers in procuring the same.

How said books are to be paid for.

SECTION 4. *And be it further enacted,* That the cost of recording and indexing the settlements and accounts aforesaid shall be paid out of the funds of the estate to which they relate, as provided in the next section.

Costs of recording how paid.

SECTION 5. The Registers shall receive, for recording and in-

dexing the accounts and settlements aforesaid, the following compensation, to wit: where the whole amount of the estate does not exceed three hundred dollars, one dollar; over three hundred dollars and less than five hundred dollars, two dollars; over five hundred dollars and less than one thousand dollars, three dollars; and for every additional five hundred dollars or fractional part thereof, (in excess of one thousand dollars,) twenty-five cents additional. Fees.

SECTION 6. *And be it further enacted,* That such record of settlements and accounts of executors, administrators and guardians shall be received as evidence in the several Courts of the State of Delaware. Records to be received as evidence.

Passed at Dover, February 11, 1867.

CHAPTER 160.

OF THE COURT OF CHANCERY.

Revised Code, 320. | SEC. 1. Powers of the Chancellor in vacation.

A Supplement to Chapter 95 *of the Revised Code, entitled "Of the Court of Chancery."* Rev. Code, 320.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Chancellor shall have power at chambers, and as well in vacation as in term, to make, direct and award all such process, commissions and interlocutory orders, rules and other proceedings preparatory to the hearing of causes upon their merits, in the same manner and with the same effect as may be done in term, reasonable notice of the application therefor being given to the adverse party or his solicitor, to appear and show cause to the contrary. The Chancellor shall also have power at chambers, and as well in vacation as in term, to make all orders and directions touching the investment, collection and disbursement of funds in Court; also, in like manner, to appoint trustees upon petition by the parties interested, and to make any order or direction, upon application by trustees, for instructions touching the investment of trust funds; also, in like manner to make and direct all orders, appointments and process, under the laws of this Powers of the Chancellor in vacation.

State, for the holding of inquisitions in lunacy, for the care of insane persons, and the management of their estates; and also, in like manner, to make and direct all orders and proceedings touching the care and management of estates held to charitable uses.

Passed at Dover, January 18, 1867.

CHAPTER 161.

JUSTICES' JURISDICTION IN CIVIL CASES OF DEBT.

An Act to amend Chapter 99 *of the Revised Code of the State of Delaware.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Sec. 17, of Chap. 99, stricken out.

SECTION 1. That Chapter 99 of the Revised Code of the State of Delaware be amended by striking out the whole of Section 17 and inserting in lieu thereof the following, to wit:

Levy, inventory and appraisement.

"SECTION 17. The goods and chattels taken by virtue of an execution issued by a Justice of the Peace, shall be inventoried and appraised by the officer levying the same, and the execution shall not bind the goods and chattels until it shall be delivered to a Constable or Sheriff to be executed, and an execution shall, from the time it is so delivered, bind all the goods and chattels of the defendant within the bailiwick of such Constable or Sheriff which shall be actually levied upon within thirty days thereafter; they shall not be sold until ten days after the appraisement, nor until they are advertised for at least ten days, in at least five of the most public places in the neighborhood, by advertisements setting forth the goods to be sold, and the day, hour and place of sale, and one such advertisement shall be delivered to every person whose goods are to be sold, and to the defendant's landlord, or to his agent if there be such residing within the county, and one such advertisement shall be delivered to each plaintiff in the execution, and also to each plaintiff in any other execution or

Goods how advertised.

Notice.

executions at the time in the hands of the Constable, or Sheriff, or shall be left at the usual place of abode of such plaintiff respectively if there be such place of abode within the county; and if any plaintiff in any such execution as aforesaid shall reside out of the county, such advertisement shall be transmitted to such plaintiff by mail, being enclosed and addressed to him at the post office nearest his place of abode at least ten days before the day of sale.

The lien of a levy, made by virtue of such execution, shall not continue as against subsequent execution creditors longer than two years from the date of such lien." Limitation of lien.

SECTION 2. *And be it further enacted,* That from and after the passage of this act it shall be the duty of any Constable, or Sheriff, upon receiving an execution, issued by a Justice of the Peace, to indorse on the back of such execution the precise time of receiving the same. Constable or Sheriff to endorse on execution the time of receiving the same.

Passed at Dover, March 22, 1867.

CHAPTER 162.

FEES.

12 Volume, 658. | SEC. 1. Section 1 Chapter 571, amended

An Act to amend Chapter 571 *of the* 12*th Volume of Delaware Laws, entitled "An Act to amend the Ninety-ninth Chapter of the Revised Code."* 12 vol. 658.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 571 of the 12th Volume of Delaware Laws, entitled "An act to amend the Ninety-ninth Chapter of the Revised Code," be amended by striking out the words "or taken," in the one hundred and twenty-second line thereof, and inserting the words "for taking," in lieu thereof. Sec. 1. chap. 571 amended. How.

Passed at Dover, February 12, 1867.

OF JUSTICES OF THE PEACE

CHAPTER 163.

FEES OF JUSTICE AND CONSTABLE IN CASES OF ATTACHMENT FOR RENT.

An Act to establish the Fees of Justices of the Peace and Constables in cases of Attachment for Rent.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following shall be the fees of Justices of the Peace and Constables in cases of attachment for rent:

TO A JUSTICE OF THE PEACE.

Justice's fees.

For every affidavit certified and filed, fifteen cents.

For issuing attachment, twenty-five cents.

For entering return and filing attachment, twenty-five cents.

For making order for sale of goods, twenty-five cents.

For summoning referees and swearing the same, twenty-five cents.

For swearing garnishees, taking answer and rendering judgment, for each garnishee, twenty-five cents.

For rendering judgment on report of referees, fifteen cents.

TO A CONSTABLE.

Constable's fees.

For attaching goods and making inventory and returning the same, one dollar, when the demand for rent shall not exceed two hundred dollars, and two dollars when the demand shall exceed that sum.

For advertising goods on order of Justice, forty cents.

For selling goods, two per cent. on the amount of sales applied to rent.

For summoning garnishees, referees and witnesses, the same fees as are allowed for like service under Chapter 571 of the 12th Volume of Delaware Laws.

Passed at Dover, February 21, 1867.

OF CIVIL ACTIONS IN GENERAL.

CHAPTER 164.

LIENS.

An Act Relating to Liens.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, as follows:

SECTION 1. In all cases in which commission merchants, factors, and all common carriers, or other persons, shall have a lien under existing laws upon any goods, wares, merchandise, or other personal property, for or on account of the costs or expenses of carriage, storeage, or labor bestowed on such goods, wares, merchandise, or other personal property, if the owner or consignee of the same shall fail or neglect, or refuse to pay the amount of charges upon any such property, goods, wares, or merchandise, within sixty days after demand thereof, made personally upon such owner or consignee, or at his last known place of residence, then in such case it shall and may be lawful for any such commission merchant, factor, common carrier, or other person having such lien as aforesaid, after the expiration of said period of sixty days, to expose such goods, wares, merchandise, or other personal property to sale at public auction, and to sell the same, or so much thereof as shall be sufficient to discharge said lien, together with costs of sale and advertising: *Provided,* That notice of such sale, together with the name of the person or persons to whom such goods shall have been consigned, shall have been first published, for three successive weeks, in a newspaper published in the county, and by six written or printed handbills, put up in the most public and conspicuous places in the vicinity of the depot where said goods may be.

Lien of commission merchant, factor and carrier.

Demand.

Sale.

Advertisement.

SECTION 2. Upon the application of any of the persons or corporations having a lien upon goods, wares, merchandise, or other property, as mentioned in the first section of this act, verified by affidavit, to any Judge of the Superior Court of this State, or to the Chancellor, setting forth that the place of residence of the owner or consignee of any such goods, wares, merchandise, or other property is unknown, or that such goods, wares, merchandise or other property are of such a perishable nature, or so damaged, or showing any other cause that shall render it impracticable to give the notice as required in the first section of this act, then, in such case, it shall and may be lawful for the Judge, or Chancellor, hearing such application, to make an order, to be

Of application to dispense with notice.

by him signed, authorizing the sale of such goods, wares, merchandise, or other property upon such terms as to notice as the nature of the case may admit of and to such Judge shall seem meet: *Provided,* That in cases of perishable property, the affidavit and proceedings required by this section may be had before a Justice of the Peace.

Proviso.

Surplus moneys.

SECTION 3. The residue of moneys arising from any such sales, either under the first or second sections of this act, after deducting the amount of the lien as aforesaid, together with costs of advertising and sales, shall be held subject to the order of the owner or owners of such property.

Passed at Dover, March 5, 1867.

CHAPTER 165.

OF THE FEES OF THE ATTORNEY GENERAL.

Revised Code, 444.
SEC. 1. Section 2 Chapter 125, amended.

SEC. 1. Attorney General's Fees.

Rev. Code, 444.

An Act to amend Chapter 125 *of the Revised Code.*

Sec. 2, Chap. 125 amended

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 125 of the Revised Code be amended, in Section 2nd thereof, by adding the following words:

Attorney General's fees.

"For obtaining judgment in suits brought in favor of the State upon forfeited bonds and recognizances, taken after the passage of this act, for appearance in the Courts of Oyer and Terminer, General Sessions of the Peace and Jail Delivery, Mayor's Court of the City of Wilmington, and in the Superior Courts upon appeals from the Mayor's Court and from the Mayor of the City of Wilmington, $10.00, and five per cent. on the sum collected on the aforesaid judgments, but whenever the said five per cent. on the amount collected in any case shall exceed ten dollars, the last aforesaid fee shall not be paid.

For collecting the aforesaid bonds and recognizances without suit, five per cent. on the amount collected."

Passed at Dover, March 21, 1867.

OF THE FEES OF PUBLIC OFFICERS.

CHAPTER 166.

OF THE FEES OF CONSTABLES AND BAILIFFS.

Rev. Code, 444.
SEC. 1. Sec. 18, Chap. 125, amended. Constables.
SEC. 2. Sec. 19, Chap. 125, amended. Bailiffs.

An Act to amend Chapter 125 *of the Revised Statutes of the State of Delaware.* Rev. Code, 444.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 18 of Chapter 125 of the Revised Statutes of the State of Delaware be and the same is hereby amended by striking out all after the word "Constable," in said section, and inserting in lieu thereof the following: Sec. 18, Chap 125 amended

"For attendance upon the Superior Court, Court of Oyer and Terminer, and Court of General Sessions of the Peace and Jail Delivery, each day, to be paid by the County Treasurer upon certificate of attendance under the hand of the Clerk, the sum of two dollars, and three cents per mile going and returning. A constable shall not be allowed for attendance upon two courts sitting at the same time. Constables.

"For attendance on the Levy Court, each day, to be paid [by the] county, two dollars, and three cents per mile, going and returning.

"For attendance as bailiff on petit or special jury during trial, until verdict, fifty cents."

SECTION 2. *And be it further enacted,* That Section 19 of said chapter be and the same is hereby amended by striking out all after the word "bailiff" in said section, and inserting in lieu thereof the following: Sec. 19, Chap 125 amended

"For attendance upon a court by a bailiff, not being a constable, two dollars per day, and three cents per mile going and returning, to be paid by the County Treasurer upon certificate of attendance under the hand of the Clerk of the Court." Bailiffs.

Passed at Dover, March 22, 1867.

FEES.—CRIMES AND PUNISHMENTS.

CHAPTER 167.

OF THE FEES OF COUNTY TREASURERS.

Rev. Code, 444.

An Act to amend Chapter 125 of the Revised Code, entitled "Of the Fees of Public Officers."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Sec. 33, Chap 125 amended

SECTION 1. That Section 33 of Chapter 125 be amended by striking out after the words, "Kent and Sussex counties," in the first line of said section, the word "four," and inserting in lieu thereof "two and one-half."

County Treasurer.

Passed at Dover, February 5, 1867.

CHAPTER 168.

CONCERNING THE PUNISHMENT OF NEGROES AND MULATTOES.

An Act concerning Free Negroes and Free Mulattoes.

Preamble.

WHEREAS slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, is strictly forbidden to exist within the United States, or any place subject to their jurisdiction, by Article 13 of the Constitution of the United States;

AND WHEREAS, though the said constitutional provision legalizes the selling of criminals into slavery or involuntary servitude, yet that slavery is virtually abolished by said provision, so that when a person is offered at public sale, as a servant, to the highest bidder as a punishment for crime whereof the party is duly convicted according to Title Twentieth of the Revised Statutes of the State of Delaware, entitled "Of Crimes and Punishments," the sale of said party is rendered impracticable for the want of bidders on account of said constitutional provision, thereby subjecting white persons to the extreme penalty

of the law, and subjecting them to a greater punishment than free negroes or free mulattoes;

AND WHEREAS it is useless for a law to remain upon our statute book that is not executed;

AND WHEREAS it is necessary and proper that free negroes and free mulattoes should be amenable to our laws as well as white persons; therefore

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That from and after the passage of this act, upon the conviction of any negro or mulatto of any of the felonies or misdemeanors enumerated and defined in Title Twentieth of the Revised Statutes of the State of Delaware, entitled "Of Crimes and Punishments," the penalty and punishment of said negro or mulatto shall be the same as is or may be provided by law for the penalty and punishment of white persons for like offences. Punishment of Negroes and Mulattoes to be the same as Whites.

SECTION 2. *And be it further enacted by the authority aforesaid,* That all acts or parts of acts inconsistent with this act be and the same are hereby repealed. Inconsistent laws repealed

Passed at Dover, March 12, 1867.

CHAPTER 169.

OFFENCES AGAINST PRIVATE PROPERTY.

Revised Code, 475.
SEC. 1. Section 5, Chapter 128 amended.

SEC. 1. Burning grain, &c.

An Act to amend Chapter 128 *of the Revised Statutes of the State of Delaware, entitled "Offences against Private Property."* Rev. Code, 475.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 5 of Chapter 128 of the Revised Statutes of the State of Delaware, entitled "Offences against Private Property," be and the same is hereby amended by inserting the words "corn fodder," between the words "hay" and "or," in second line of said section. Sec. 5, Chap. 128 amended. Burning grain, &c.

Passed at Dover, March 4, 1867.

OF CRIMES AND PUNISHMENTS, &c.

CHAPTER 170.

OF THE PROTECTION OF CEMETERIES.

An Act for the Protection of Cemeteries, Grave-yards, and Places of Burial.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Penalty for injuries to burial places

SECTION 1. Every person who shall wilfully and maliciously destroy, mutilate, deface, injure, or remove any tomb, monument, grave-stone, or other structure placed within any cemetery, grave-yard or place of public burial, or any fences, railing, or other work for the protection or ornament of any tomb, monument, grave-stone, or other structure aforesaid, or of any cemetery lot within any cemetery, or shall wilfully and maliciously destroy, remove, cut, break, or injure any tree, shrub or plant within any cemetery, or who shall wilfully and maliciously destroy, mutilate, injure, or remove and carry away any flowers, wreaths, vases, or other ornaments placed upon or around any grave, tomb, monument, or lot within any cemetery, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment for a term not exceeding six months, or both, at the discretion of the Court.

Passed at Dover, February 19, 1867.

CHAPTER 171.

WHARVES IN THE CITY OF WILMINGTON.

11 Vol. 181.

An Amendment to the act entitled "An Act to regulate the Building of Wharves in the City of Wilmington."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That the act entitled, "An act to regulate the

building of Wharves in the City of Wilmington," be amended by adding thereto a 9th section, as follows, viz: Original act amended.

"The several posts, mark stones and bounders fixed or set in the banks on either side of the Christiana river, by or under the authority or direction of the said commissioners, and by them adopted as land-marks, from which the wharf lines were to be computed and measured, shall be deemed public bounders; and if any person shall wilfully break, pluck up, or remove any of said posts, mark stones, or bounders, such person shall, for every such offence, be proceeded against criminally, either in the State Courts, or before the Mayor's Court for the City of Wilmington, and upon conviction shall be adjudged to pay a fine of one hundred dollars or imprisoned for a term not exceeding six months in the county jail, or both, at the discretion of the Court: *Provided, nevertheless,* That the City Council of Wilmington may, in a proper case in its judgment, upon written application, by ordinance or resolution, accord the right in any particular case, on terms or absolutely, to remove such post, mark stone or bounder. Bounders fixed or set, &c., to be deemed public bounders. Penalty for injury to. Proviso.

Passed at Dover, February 12, 1867.

CHAPTER 172.

OF THE CITY OF WILMINGTON.

Revised Code, 209.
SEC. 1. Section 47 Chapter 73 amended.
SEC. 1. Donations to fire companies increased.

An Act to amend Section 47 of Chapter 73 of the Revised Statutes, entitled "Of the City of Wilmington." Rev. Code, 209.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That Section 47 of Chapter 73 of the Revised Statutes of this State, entitled "Of the City of Wilmington," be amended by striking out all of said section, after the word "exceed," and inserting in lieu thereof the words "one thousand dollars to any one company annually." Sec. 47, Chap 73 amended. Donations to fire companies increased

SECTION 2. All acts or parts of acts inconsistent with this act are hereby repealed.

Passed at Dover, February 13, 1867.

CONCERNING CITIES AND TOWNS.

CHAPTER 173.

CITY DEBT OF WILMINGTON.

10 Vol. 329. *A Further Supplement to the act entitled, "An Act to limit the City Debt of Wilmington, and to provide for the discharge thereof," passed February 21st, 1849.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring), in compliance with the request of a public meeting of the citizens of Wilmington, specially called for the consideration of this question, and the tenor of this act having been approved by said meeting:

Chancellor and Chief Justice authorized to appoint Water Commissioners.

SECTION 1. That for the purpose of enlarging, improving, and extending the Brandywine Water Works, either by the use of water or steam power, the Chief Justice and the Chancellor of this State are hereby authorized to appoint two suitable and judicious freeholders of the City of Wilmington to act as Water Commissioners of said city. In case of vacancy by death, resignation, or otherwise, during the term of office of said commissioners, the said Chief Justice and Chancellor shall make other appointments, but no person shall, at any time, be appointed without the concurrence of both of them, the said Chief Justice and Chancellor. The term of office of said commissioners shall continue until the enlargement and improvement of said Water Works shall be completed, but shall not exceed the space of three years without reappointment.

Vacancies.

Official term.

Powers of Water Commissioners.

SECTION 2. The power to enlarge, improve and extend the Brandywine Water Works is hereby vested solely in said Water Commissioners. They may, in their discretion, purchase or obtain lands or water powers, build reservoirs, erect pumping machinery, use the streets of the City of Wilmington or the roads of the County of New Castle for laying pipes, control the water power now owned by the city, join, on behalf of the city, with other mill owners on the Brandywine in improving the water power thereof, and generally do such things on behalf of the City of Wilmington as are believed by them to be desirable and advantageous in the premises.

Water Loan.

SECTION 3. Upon two months' notice, by written application of said Water Commissioners to the City Council of Wilmington,

the said Council is hereby authorized and required to create a loan, and borrow money thereon, for the use of the said commissioners. Said loan shall be called the "Water Loan," and shall not, in any case, exceed the sum of two hundred thousand dollars. Said loan shall bear interest at a rate not exceeding six per centum per annum, payable semi-annually, and shall be payable as follows, viz: one-third in twenty years from date, one-third in twenty-five years from date, and the remaining one-third in thirty years from date.

Rate of interest. When payable.

SECTION 4. When any loan shall be effected under this act, the City Council shall appropriate annually (within three years thereafter) a sum equal in amount to at least three per centum of the amount of said loan so created for its redemption: *Provided*, That if some part of said loan cannot be purchased at par by the Commissioners of the Sinking Fund, they may redeem or buy another loan of the city that can be had at or less than par, or they may subscribe for any new loan that may be lawfully created by the city.

Annual appropriation for redemption of Water Loan.

SECTION 5. The Treasurer of the City of Wilmington shall hold all moneys raised from said Water Loan subject to the order of said Water Commissioners, and shall neither use nor permit it to be used for any other purpose whatsoever. He shall pay it, or any portion of it, upon drafts signed by both of said Commissioners.

City Treasurer to hold monies raised from Water Loan. Same subject to order of Commissioners.

SECTION 6. In case the said Water Commissioners shall be unable amicably to agree with the owners for the purchase of such land as may be required for the purpose of this act, then so much thereof as shall be required for the said purpose may be condemned and taken for the purposes of this act in the same manner and subject to the same conditions and proceedings as are by Section 23 of Chapter 376 of the Laws of this State, entitled "An Act to amend the Charter of the City of Wilmington," prescribed for condemning and taking land for the extending, widening, laying out, or opening streets, except that the proceedings to be taken by the Sheriff under this section shall be pursuant to a warrant or precept to be issued under the hands of the Water Commissioners in the said city, and not by the Mayor and Alderman as in said act is provided; also, that the commission to be issued shall command the freeholders to whom it shall be directed to assess the damages that may result to the several owner or owners of the land required for the purpose of improving, enlarging and extending the Brandywine Water Works under this act.

Condemnation of land for purposes of this act.

SECTION 7. Said Commissioners shall cause to be kept a fair record of all their proceedings, and also full and true accounts of their receipts and disbursements, and they shall make to the

Duties of Water Commissioners.

City Council a written report, at least once in each year, of the progress of the work, together with a statement of their receipts and disbursements for the previous year. No work of any kind shall be proceeded with until the sanction of both Commissioners be obtained, nor shall any contract, either for material, labor, or services, be binding unless signed by both of them. In case of conflict of opinion or jurisdiction between them and the Watering Committee of the City Council, either as to the old or the new works, or the connections between them, or upon any other point whatever, the decision of said Commissioners shall be absolute and final.

Salaries of Commissioners.

SECTION 8. Said Commissioners may allow themselves salaries during their terms of office, if in their opinion services to warrant have been rendered, not exceeding to each the sum of one thousand dollars per annum, and for the faithful expenditure of moneys coming into their hands they shall each give bond to the city, with sureties, to be approved by the Chief Justice and the Chancellor, in the sum of twenty-five thousand dollars.

Their bond.

Passed at Dover, March 13, 1867.

CHAPTER 174.

CATTLE NOT TO RUN AT LARGE IN MILTON.

An Act to prohibit Cattle from running at large in the Town of Milton.

Limits within which cattle are not to run at large.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That no cattle shall be suffered to go or run at large within the limits of one mile in every direction from the bridge which crosses Broadkiln Creek in the Town of Milton.

Impounding estrays.

Notice.

SECTION 2. *And be it further enacted,* That cattle so running at large, within the limits aforesaid, may be taken and impounded by any person who shall forthwith give notice, in writing, to the owner or owners, if known, or if he, she, or they be unknown,

or reside more than three miles distant, by advertisements posted in three public places of Broadkiln Hundred; and any Constable may, after five days from the impounding, sell such cattle, on five days' notice, by advertisements posted in five public places of the neighborhood, and the proceeds of sale, after deducting one dollar for each of said cattle and three per centum shall be paid one-half to the School Committee of the School District wherein the said cattle may have been taken for the benefit of the school in said District;* and the owner or owners, holder or holders of such cattle running at large, contrary to the provisions aforesaid, shall also be held liable for all damages by said cattle, to be recovered by an action of trespass at the suit of the damaged party.

Sale.

Proceeds, how paid.

SECTION 3. *And be it further enacted,* If the owner or owners of such cattle shall, before sale, pay to the person impounding the same the sum of one dollar for each one of his, her, or their said cattle, so as aforesaid impounded, and fifty cents a day for the keep of each one of said cattle, and to the Constable fifty cents for each one of said cattle, for advertising the same, the said cattle shall be restored to him, her, or them, or if the owner or owners reside out of the limits so as aforesaid prescribed, and has not, knowingly, suffered them to run at large within said limits, they shall be restored to him, her, or them, on his, her or their paying the keep and the Constable.

Conditions on which estrays are to be restored to owner.

SECTION 4. *And be it further enacted,* That the person impounding shall provide for the cattle so as aforesaid impounded necessary food and water.

Providing food while estrays are impounded.

Passed at Dover, February 12, 1867.

* So in enrolled bill.

CONCERNING CITIES AND TOWNS.

CHAPTER 175.

ACT INCORPORATING MILTON REVIVED.

Vol. 12, 647. *An Act to revive and continue in force and amend an act entitled, "An Act to incorporate the Town of Milton."*

Act of March 17, 1865, incorporating Milton, revived.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all the provisions of "An act to incorporate the town of Milton," passed at Dover, March 17, 1865, so far as they are applicable to the purposes for which the said act was passed, be and the same are hereby revived and continued in force, and shall have the same effect in law that they might or could have had at any time heretofore.

Sec. 1 of original act amended.

SECTION 2. *Be it further enacted,* That the act hereby revived and continued in force be and the same is hereby amended by striking out the names of James Ponder and Robert L. Lacy in the first section of said act, and inserting, in lieu thereof, the names [of] William Russell and Lewis B. Chandler.

Failure of commissioners to perform duties not to dissolve corporation.

SECTION 3. *Be it further enacted,* That any failure of the commissioners to perform the duties required of them by the act aforesaid, at the time mentioned in said act, or any failure to elect commissioners at the times in said act specified, shall not dissolve the corporation, but the commissioners for the time being shall hold their offices until successors be duly chosen, and in case commissioners are not elected at an annual meeting the commissioners may call a special meeting for that purpose.

Passed at Dover, March 11, 1867.

CONCERNING CITIES AND TOWNS.

CHAPTER 176.

MILFORD INCORPORATED.

An Act to Incorporate the Town of Milford.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring,) That an election shall be held in the Town of Milford, Kent county, on the first Monday in March next, at the place where the general elections are now held, from 1 o'clock till 4 o'clock in the afternoon, and thereafter on the first Monday of every March, at such time and place as shall be determined and fixed by the Town Commissioners, due notice whereof shall be given by the said commissioners at least five days before said subsequent elections, for an alderman, five commissioners, an assessor and treasurer. The said alderman and three of said commissioners, and the assessor and treasurer, shall be residents of and freeholders in said town: the two remaining commissioners shall be residents of the

Elections for Alderman, Commissioners, Assessor and Treasurer, when and where held.

Notice.

Qualifications of said officers.

Balloting.

said town. The votes shall be received by a State's Justice of the Peace in said town, and the result of the balloting for said alderman, commissioners, assessor and treasurer shall be ascertained by himself and two citizens of said town selected by him to assist in holding said election. At such election every free white male citizen of said town, who shall have attained the age of twenty-one years, and is a taxable of said town, shall have the right to vote. The Justice of the Peace and two citizens aforesaid shall be judges of the election, and shall decide on the legality of the votes offered. Immediately after the election is closed the votes shall be read and counted, and the persons having the highest number of votes shall be declared duly elected and shall continue in office one year, or until their successors are duly elected. Immediately after such election the person or persons under whose superintendence the election is held shall enter, in a book to be provided for that purpose, a minute of such election, containing the names of the persons chosen alderman, commissioners, assessor and treasurer, and shall subscribe the same, and shall give to the alderman, commissioners, assessor and treasurer elect certificates of their election. The book containing such minutes shall be preserved by the commissioners and shall be evidence.

Qualifications of voters.

Judges.

Minutes of election to be entered.

Certificates of election.

Commissioners incorporated.

SECTION 2. *And be it further enacted as aforesaid,* That the commissioners of the Town of Milford, to be elected as hereinbefore prescribed, and their successors in office, shall be and they are hereby created a body politic and corporate in law; and the said commissioners of the Town of Milford, and their successors, shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of judicature whatsoever in this State, by the corporate name of the "Commissioners of the Town of Milford," and may have and use a common seal, with such device or devices as they shall think proper, with power to alter or change the same as may be deemed expedient; to purchase, take, hold, receive and enjoy any messuages, lands, tenements or hereditaments, in fee simple or otherwise, and also goods and chattels, rights and credits, and to alien, grant, demise, sell and dispose of the same in such manner and form as they may deem expedient: *Provided, nevertheless,* That there is hereby reserved to the Legislature the power and authority to repeal this act or any part thereof, or any other law which may hereafter be enacted respecting the said Town of Milford.

Corporate powers.

Name.

Power of revocation.

Town limits.

SECTION 3. *And be it further enacted as aforesaid,* That the limits and bounds of the Town of Milford shall be and remain as follows, viz: Beginning at Mispillion Creek, below the said Town of Milford, at a landing known as "Paul Knabb's;"

thence partly with a lane leading thereto, north fifty-three degrees west two hundred and thirteen perches to the road leading out Church street of the said Town of Milford to Frederica; thence south thirty-four degrees west a straight line to Milford mill-pond across the road leading from the said town of Milford to Cullentown at a deep wash and small bridge over said road: thence down the water-course of said mill-pond and Mispillion creek to the place of beginning; *Provided,* That all that part of the farm and premises whereon Henderson Collins, Jr., now resides, known as the "Potter Farm," and all tillable lots of ground included within the limits of the town as herein set forth, shall forever hereafter be exempt from taxation for the use and purposes of the said Town of Milford. Proviso.

SECTION 4. *And be it further enacted as aforesaid,* That the person elected as alderman aforesaid of said town shall have all the powers of a justice of the peace within the limits of said town so far as the jurisdiction and cognizance of all breaches of the peace and other offences within said town, to arrest and hold to bail or fine and imprison such offenders, and of all fines, forfeitures and penalties which may be prescribed by any law of the State or by ordinance of the town commissioners regularly passed and established for the government of said town, and of all neglects, omissions or defaults of the town bailiff, assessor, or treasurer, or any other person or officer whose duty it may be to collect, receive, pay over, or account for any money belonging to said town, or to execute or obey any law or ordinance thereof; *Provided,* That he shall not impose any fine exceeding ten dollars, nor have jurisdiction in any civil matter other than to carry out the provisions of this act or the rules and regulations adopted for the government of said town by the persons authorized to adopt the same under this act. The fees of said alderman shall be the same as are allowed Justices of the Peace for similar services under the laws of this State. It shall be the duty of the alderman to keep a book of record, or docket, to be called the "Alderman's Docket of the Town of Milford," to be provided by the commissioners aforesaid, in which all his official acts shall be entered, and he shall, upon expiration of his term of office, deliver over to his successor all the books, papers, &c., pertaining to his office, within ten days after the election and qualification of his successor, and in default of so doing he shall forfeit and pay, for the use of said town, the sum of twenty dollars, to be recovered before the succeeding alderman or any justice of the peace residing in said town. Powers and duties of Alderman. Alderman's docket.

SECTION 5. *And be it further enacted as aforesaid,* That the alderman, commissioners, assessor, and treasurer aforesaid, so elected, shall, before one of the justices of the peace in the said Oath of office.

town, be duly qualified by oath or affirmation to perform the duties of their offices respectively, to the best of their knowledge respectively, and without favor or partiality; and after being so qualified, the said commissioners, at their first meeting after each election, shall choose a president and secretary from their number, who shall continue during their term of office; and if by death or otherwise the place of the president or secretary shall become vacant, the commissioners, or a majority of them, at their next meeting thereafter, are hereby authorized to fill said vacancy out of their own number as aforesaid. And if a vacancy should occur in the office of alderman, commissioners, assessor, or treasurer, during the said term of office, by death or otherwise, the said commissioners, or a majority of them for the time being at their next meeting thereafter, are hereby authorized to fill such vacancy by appointing an alderman, assessor, commissioner, or treasurer, or either, as the case may be, to fill the unexpired term of said office or offices and all such appointments made by said commissioners, authorized as aforesaid. All the commissioners shall act, but the decision of a majority shall govern. The officer so appointed, after being qualified as aforesaid, shall have all power in like manner and be subject to all penalties the same as those duly elected to said office or offices. It shall be the duty of the president chosen as aforesaid to preside at all meetings of said commissioners, and in case of his or the secretary's absence, an officer *pro tem.* shall be appointed to act in his or their place. It shall be the duty of the secretary to record all the proceedings of the said commissioners and keep a correct journal of the same in a book or books to be provided for the purpose, and also the papers relative to said town, all of which are to be carefully preserved and delivered to his successor in office.

Commissioners to choose a President and Secretary.

Vacancies.

President to preside.

Duties of Secretary.

Powers and duties of commissioners in relation to roads, streets, &c.

SECTION 6. *And be it further enacted as aforesaid,* That the commissioners for the time being, or a majority of them, shall have the superintendence and oversight of all roads and streets, lanes, alleys and gutters now opened or hereafter to be opened, and shall have power and authority to cause the streets, lanes, alleys, bridges and gutters in said town to be repaired, supported, regulated, removed and amended in any manner they may deem most proper for the convenience and interest of the citizens of said town, and shall cause a fund to be raised by way of tax upon persons authorized to vote for commissioners by this act, and upon all lands and tenements and interest in such lands and tenements within the limits of said town hereinbefore described, to discharge the expenses of repairing the said streets, lanes, alleys, bridges and gutters, or for any other purpose that will contribute to the safety, convenience and prosperity of said town. That the commissioners for the time being, or a majority of

Tax to discharge the expenses of repairing streets, &c.

them, shall have the power, upon the application of five or more citizens of said town by petition to them for that purpose, to locate, lay out and open any new street or streets which five or more citizens of said town may desire to be located and laid out and opened, allowing to the persons respectively through or over whose grounds such new street or streets may run such compensation or damages therefor as they shall deem just and reasonable under all circumstances, which compensation, if any be allowed, shall be paid by the treasurer of the Town of Milford out of moneys of said town on warrant drawn on him by the commissioners aforesaid. That the Levy Court of Kent county be and they are hereby directed, in making the apportionment of the sum of the road taxes to be paid to the overseers of roads, annually to make an order for the payment to the commissioners of the town of Milford of the sum of one hundred and fifty dollars, to be by them expended in repairing and maintaining in proper order the roads, streets and bridges within the limits of said town; and the said commissioners shall have the sole supervision of said roads, streets and bridges, and shall settle with the said Levy Court as other overseers of public roads: *Provided, always*, That the said commissioners shall in no case be required to repair or keep in order any roads or walks on mill dams, or bridges of any mill or mills that may be included in the limits of said town by this act, or bridges over Mispillion Creek, or any roads or highways subject to be supported by the County of Kent.

Laying out and opening new streets.

Levy Court of Kent co. to make an annual appropriation for roads, streets, &c.

Proviso.

SECTION 7. *And be it further enacted as aforesaid*, That whenever the commissioners shall have proceeded to locate and lay out any new street, and shall have fixed the compensation therefor, it shall be their duty, immediately after the survey and location of said street, to notify, in writing, the owner or owners of the real estate through or over which such new street may run of their determination to open the same, and to furnish a general description of the location thereof, and also the amount of such damages or compensation allowed to each; and if such owner be not resident within the said town, to notify the holder of said real estate. If any owner be dissatisfied with the determination to lay out and open the said street, or with the amount of the compensation or damage, he may, within ten days after receiving notice from the commissioners as aforesaid, appeal from the said determination or assessment, or both, by serving written notice to that effect on the said commissioners, or some one of them. In order to prosecute said appeal, such owner or owners shall, within ten days after the expiration of the ten days allowed for appeals, apply to the justice of the peace, oldest in commission, residing within said town, who shall, within three days there-

Notice of determination to open new streets.

Appeal from said determination.

Mode of selecting freeholders to decide the appeal.

after, and upon notice to the said commissioners or some one of them, select and write down on a list the names of twenty-one judicious and impartial freeholders, nine of whom shall be freeholders of Milford hundred, owning no real estate in said town, and residing within its limits, and the remaining twelve shall be freeholders owning real estate in said town and residing within its limits. The said commissioners shall, upon receiving said notice from the justice, immediately notify all persons owning real estate on the said street and residing in said town, who have notified them of their intention to appeal, of the time and place when and where the said names will be selected, and at the time and place mentioned in the notice of the justice, the said appellants, or as many of them as choose, and the said commissioners shall attend. The appellants, their agent, or attorney, shall first strike out one of said names, and the commissioners, their agent or attorney, shall strike out another, until each shall have struck out seven; such striking shall be so confined and regulated as to leave seven remaining freeholders, located as follows, viz: four resident in said town and three residing out of said town, who shall constitute the freeholders who shall determine concerning the necessity of said street, and assess the damages of all owners of real estate through or over whose ground the said street shall run who shall have notified the commissioners of their intention to appeal, and their award and assessment shall be final, and a copy thereof shall be communicated to all parties, appellants and commissioners. In case either side, commissioners or appellants, be not represented before the justice, or shall refuse to strike, the justice shall strike for the party so absent, neglecting, or refusing. Any party, appellant or commissioners, may, within ten days after the appointment of said freeholders, and upon five days' notice to the other parties resident in said town, or in case of non-residents notice to the holders of any real estate, call out the freeholders aforesaid, who shall thereupon proceed upon oath or affirmation to inquire of the necessity of such street, and, in case they deem such street to be necessary, to assesss the damages of the several owners. Their award shall be made within twenty days from the time of notifying them to meet. If any freeholder thus appointed and notified shall refuse to serve he shall forfeit the sum of twenty dollars, to be recovered in an action of debt before any justice of the peace of Kent county, in the name of the town commissioners for the use of said town. If, in case the award of the freeholders shall be against the necessity of any such street, then no petition for any such new street so condemned shall be entertained by the commissioners then acting during the term for which they were elected. The act of a majority of the said freeholders shall be as good as the

Freeholders' award.

act of the whole in making any such award or assessment of damages.

SECTION 8. *And be it further enacted as aforesaid,* That if on any such appeal the award shall be against the necessity of a street, or the freeholders shall increase the damages of any appellant, then the costs of appeal shall be borne by the town. But if the freeholders shall affirm the necessity of the street, and shall not increase the damages of any appellant, then the costs shall be paid by the appellants equally. That the damages which may be assessed upon the occasion of opening any new street shall be paid out of the funds of the town, or duly tendered, before the property of any person in whose favor the damages are assessed shall be appropriated for the opening of any such streets, and in case any such owner or owners, in whose favor any such damages are assessed, shall be a minor, non-resident, or shall refuse to receive or be incapable for any cause of receiving the the same, such damages may be deposited in the office of the Bank of Smyrna, at Milford, or any other banking institution which may at the time exist in said town, to the credit of such person or persons, and subject to his or their order, and such deposit shall operate as payment. The fees of the freeholders shall be one dollar per day.

Costs of the appeal, how borne.

Damages assessed, out of what funds to be paid.

Damages assessed to minors and non-residents, where deposited.

Fees of freeholders.

SECTION 9. *And be it further enacted as aforesaid,* That the commissioners, or a majority of them, be and they are hereby authorized and required, upon the written petition of five or more freeholders of said town, to direct, in writing, the proprietor or proprietors of any house or land in Milford, before or in front of which they may deem proper that a pavement should be made, to curb and lay a pavement of brick or smooth stones. of such length and width as the said commissioners may specify, and if such proprietor or proprietors shall neglect or refuse, for the space of three months after being directed as aforesaid, to lay such pavement with good and sufficient curbs, it shall and may be lawful for the said commissioners, and they, or a majority of them, are authorized and required to cause such pavements and curbs to be made, and to recover the costs of making the same by the distress and sale of any goods and chattels, lands and tenements belonging to such proprietor or proprietors within the limits of the said town. If any pavement already made shall at any time by the said commmissioners, or a majority of them, be deemed an insufficient pavement, they, or the majority of them, shall have power and are hereby required to direct, in writing, the proprietor or proprietors thereof to make a sufficient one, and upon neglect or refusal so to do for the space of three months, the said commissioners, or a majority of them, shall cause the same to be done and recover the cost of doing

House or land proprietors may be directed to curb and pave.

In case of refusal or neglect Commissioners to cause such curbing and paving to be done.

Costs, how recovered.

Of insufficient pavements.

the same in like manner as above prescribed in case of new pavement. Notice to one co-proprietor shall be notice to all, and in case no proprietor shall reside in the town, notice to the occupier shall be deemed a sufficient notice to the proprietor. The said commissioners, or a majority of them, may cause such sidewalks, or portions thereof as are unpaved, to be covered with gravel, sand, or dirt, if they deem them not proper to be paved, and shall cause them to be put in good order for the convenience of the citizens of said town, and may cause flag stones to be put down at the crossings of the streets wherever they may think necessary, and the cost of doing the same shall be defrayed out of the funds of the town. If any lot or lots on any of the said streets shall be held or owned by a widow or widows in right of dower, such expenses incurred as aforesaid for the lot or lots so held shall be paid by the owner or owners of the reversion in fee simple, and if such owner or owners be minors at the time of such expenses being incurred, then to be paid by the guardian or agent acting for such minor or minors out of any money or effects of such minor or minors, and a receipt therefor to such guardian or agent shall be a sufficient evidence of such payment, and be allowed in his or her guardian or agent account; and if not paid by the guardian or agent as aforesaid, on the presentation of the bill, the same to remain on interest from day of presentation and be a lien against such lot and improvements until paid. All subsequent repairs named in this act to be kept up at the expense of such holder in right of dower.

Notice.

Commissioners may cause unpaved walks to be gravelled.

Costs, how defrayed.

When reversioners shall pay costs.

SECTION 10. *And be it further enacted as aforesaid,* That the said commissioners shall have authority to make such regulations and ordinances for the government of the town as they shall deem proper and necessary, and they are hereby authorized and required to provide sanitary measures for the health of the citizens, cause all obstructions and nuisances that may at any time be and exist within the limits of said town, whether in the streets, lanes, alleys, or gutters, on the sidewalks, or in any other place within the limits aforesaid, to be removed and abated. The said commissioners, or a majority of them, may proceed either upon their own view or upon complaint of any other citizen, in writing, stating the character of said nuisance or obstruction, and where the same exists. If the said commissioners, or a majority of them, either of themselves or upon such information and upon view shall determine that an obstruction or nuisance exists and ought to be removed, they shall give notice in writing to the person causing such obstruction or nuisance, or who is responsible for its existence or continuance, to remove or abate the same, and if such person shall refuse or neglect, for the space of

Commissioners to make town regulations and ordinances and provide sanitary measures.

Nuisances.

two days after such notice, to remove or abate the said obstruction or nuisance, he shall forfeit and pay the sum of ten dollars with costs, to be recovered by the commissioners for the use of the town in the same manner as debts of that amount are recoverable; and for every additional day the same shall remain unabated and unremoved [he or she] shall forfeit the further sum of ten dollars to be recovered with costs in the same manner.

Lock-up or jail authorized.

SECTION 11. *And be it further enacted as aforesaid,* That it shall and may be lawful for the said commissioners to build and maintain a suitable place as a lock-up or jail for the use of said town, and the alderman of said town, or any justice of the peace acting under the provisions of this act, or carrying into execution any judgment or sentence pronounced under its authority or the authority of any ordinance or regulation adopted by virtue of the power herein conferred, may commit to the said lock-up or jail, for any time not exceeding five days, and for want of such lock-up or jail, to the common jail of Kent county.

Annual assessment.

SECTION 12. *And be it further enacted as aforesaid,* That the assessor of the town for the time being, shall annually, during the month of April, make a true, just and impartial valuation and assessment of all the real estate within said town, except as mentioned in the first section hereof, and also an assessment of all the white male citizens residing in said town above the age of twenty-one years, as well those owning as those not owning real estate within its limits, and the said assessor shall forthwith, after making such assessment, deliver to the commissioners for the time being a duplicate containing the names of all the persons assessed and the amount of their assessment, distinguishing the real and personal assessment of each. The commissioners shall assess the real estate and person of the assessor. The commissioners shall, between the first and fifteenth days of April, cause a full and complete transcript of said duplicate to be hung up at the hotel now occupied by Justice M. Lowery, in said town, there to remain for the space of twenty days thereafter for public information, and the said commissioners shall, on the Monday next after the expiration of the said twenty days, hold a Court of Appeal, which shall continue open from 9 o'clock, A. M. until 12 M., and from 2 o'clock, P. M. until 5 o'clock, P. M. of the said day when they shall hear and determine appeals from said assessment. Notice of the hanging up of the list, and also, at the same time, notice of the time and place of hearing appeals, shall be given by notices posted in at least six public places in said town. The decision of the commissioners upon any appeals shall be final and conclusive. No commissioner shall sit upon his own appeal, but the same shall be heard and determined by the others. After the valuation and assessment shall be examined

Duplicate assessment list to be delivered to Commissioners.

Transcript of the same, where to be placed.

Court of Appeal.

and adjusted by the said commissioners, all taxes shall be levied, assessed and raised on the real estate and persons thus valued and assessed in just and equal proportions and rates. The assessor, immediately after his election and before entering upon the duties of his office, shall be sworn or affirmed, by some judge or justice of the peace, diligently, faithfully and impartially to perform the duties of his office to the best of his ability, knowledge and judgment, and a certificate shall be made by the person administering the oath or affirmation in the record book of the commissioners containing the certificate of the election of the alderman, commissioners, assessor and treasurer aforesaid.

Assessor to be sworn.

Tax list to be delivered to Treasurer.

SECTION 13. *And be it further enacted as aforesaid,* That the commissioners, after having ascertained the sum necessary to be raised on the said town for the purposes of this act, and having apportioned the same on the assessment and valuation aforesaid, shall yearly, in the month of April, or as soon thereafter as convenient, furnish the treasurer of said town with a list containing the names of the taxables, as well the owners of real estate as those not owning real estate, and opposite the names of each the amount of the real estate and his personal assessment, distinguishing between them, and also the tax levied on each person, and also the tax on the whole valuation and assessment, and the rate per hundred dollars. The list shall be signed by the commissioners, or a majority of them. The treasurer, immediately after receiving the said list, shall proceed to collect the taxes mentioned in the said list, and in collecting the same shall have the same powers as are by law given to the collector of the county rates and levies. The treasurer, before he enters on the duties of his office, shall give bond, with sufficient surety, in the penal sum of one thousand dollars, to the commissioners, conditioned for the faithful discharge of the trust reposed in him, and the payment over to his successor in office of all such sums of money as may remain in his hands upon the settlement of his accounts. The said treasurer shall pay all orders drawn on him by the said commissioners, or a majority of them, and shall settle his accounts with the said commissioners anuually, in the month of February, and as often and at such times as they or a majority of them shall require. The said assessor and treasurer shall each receive a reasonable compensation, to be determined by the commissioners.

Collection of taxes.

Treasurer to give bond.

Duties.

Compensation.

Town bailiff authorized.

SECTION 14. *And be it further enacted as aforesaid,* That the said commissioners are hereby authorized to appoint some discreet and judicious citizen, a resident of Milford, town bailiff; the said bailiff shall have all the powers and authority within the limits of said town of a constable of the State of Delaware in and for Kent County, as to the cognizance of all breaches of

Powers.

the peace and other offences within said town, and shall hold his office subject to the option of the commissioners, and his fees and emoluments shall be the same as those of constable for like services: *Provided*, That he shall not serve any civil process except to carry out the provisions of this act. It shall be the duty of the said alderman, commissioners and bailiff, or of any justice of the peace and constable of Kent County, residing in said town, to suppress all riotous, turbulent, disorderly, or noisy conduct of any person or persons, or disorderly and noisy assemblages or gatherings of any person or persons in the streets, lanes, or alleys of the said town, or in any house situated therein after night, or on the Sabbath day, or at any other time or season whatever, and for this purpose it shall be the duty of the said bailiff, or any constable, upon the requisition of the alderman, or of any one of said commissioners, and without further warrant, forthwith to seize and arrest any such person or persons so offending, and to carry him or them before the said alderman, or any justice of the peace resident in said town; and upon conviction before the said alderman, or justice of the peace, as aforesaid, (whose duty it shall be to hear and determine the case,) the said alderman or justice of the peace shall sentence any such person or persons so convicted to pay a fine not exceeding ten dollars, and commit the party to the lock-up, or jail, for any period not more than five days, or until said fine and the costs be paid. It shall be the duty of said alderman, or justice of the peace, upon complaint made before him of any such riotous, turbulent conduct as aforesaid, or noisy assemblages, to issue his warrant to the said bailiff, or constable, commanding him to bring any such person or persons so offending as aforesaid, before him for trial. That the said lock-up, or jail, shall be in the charge of the town bailiff, whose duty it shall be to provide for the maintenance of such persons as may from time to time be confined therein, the expenses to be defrayed by the treasurer of the town, upon a warrant drawn upon him by the commissioners for that purpose.

Fees.

Disorders to be suppressed.

Proceedings herein.

SECTION 15. *And be it further enacted as aforesaid*, That it shall be the duty of the said alderman, commissioners, bailiff, or justice of the peace to suppress, extinguish, and prevent all bonfires in any of the streets, lanes, or alleys of the said town, and to suppress or prevent the firing of guns, pistols, or the letting off of fire-works, or the making or throwing fire-balls within the limits of said town; and the said commissioners may enact and publish ordinances, with reasonable penalties for preventing the same, and punishing persons guilty of their violation. Any fine imposed by any such ordinance may be collected before the said alderman or justice of the peace in the town, and, in default of payment, the said alderman or justice of the peace may commit

Bon-fires, &c. not to be allowed.

Ordinances to prevent the same.

Fines and forfeitures to be delivered to Treasurer.

Penalty for neglect of duty on part of Constable.

for any time not more than five days. All fines and forfeitures realized under the provisions of this act, by the alderman, or justice of the peace as aforesaid, shall be paid over to the treasurer for the use of the town. If any constable shall neglect or refuse to perform the duties above enjoined on him by this act, he shall be deemed guilty of a misdemeanor in office, and it shall be the duty of the commissioners to present him to the grand jury, and upon conviction he shall, in addition to the punishment imposed by the court, forfeit his office.

Loan authorized.

SECTION 16. *And be it further enacted as aforesaid,* That it shall be lawful for the town commissioners of the Town of Milford elected, or hereafter to be elected, to negotiate a loan or loans bearing interest at the rate of six per centum per annum, and pledge the faith of said town for the payment thereof, to be expended for the purpose of repairing the public streets in said town, in such manner as to them shall seem most proper and advisable, or for such other purposes as they may deem for the best interest and welfare of the town. The said commissioners may negotiate said loan or loans, in such sum or sums, and at such time or times as shall to them appear expedient, and may execute under their hands and seals as such commissioners, a bond or bonds for the payment of every sum by them borrowed under the provisions of this act: *Provided, however,* That the indebtedness of the town, at any time, shall not exceed the sum of one thousand dollars.

Limit to indebtedness.

Certain acts repealed.

SECTION 17. *And be it further enacted as aforesaid,* That an act concerning the Town of Milford, passed at Dover, February 6, 1861, and an act to amend the act entitled "An act directing the manner of choosing commissioners to regulate and repair the streets of Milford and for other purposes," passed at Dover, February 13, 1841, and all subsequent supplements thereto, passed up to this date, be and the same are hereby repealed made null and void.

Passed at Dover, February 25, 1867.

CONCERNING CITIES AND TOWNS.

CHAPTER 177.

ESTRAYS.

An Act to prevent the running at large of Horses, Mules, Colts, Cattle, Hogs, Sheep, and Goats, within the limits of the Town of Georgetown, in Sussex County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That the owner of any horse, mare, gelding, colt, mule, or cattle, who shall suffer the same to be at large out of such owner's enclosed grounds, within the limits of the town of Georgetown, in Sussex county, shall forfeit and pay the sum of five dollars, with costs of suit, to be proceeded for and recovered before any justice of the peace in and for said county; one moiety of said fine to be paid to the president of the board of commissioners of the said town of Georgetown, for the use and benefit of said town, and the other moiety thereof to be applied to the use and benefit of the person impounding such animal, as hereinafter provided. Penalty for suffering horses, &c., to be at large.

SECTION 2. That the owner of any goat, swine, or sheep, who shall suffer the same to be at large out of such owner's enclosed grounds, within the limits of said town of Georgetown, shall forfeit and pay the sum of three dollars for each goat, two dollars and fifty cents for each swine, and two dollars for each sheep so suffered to be at large as aforesaid; the said sums, with costs of suit, to be proceeded for and recovered before any justice of the peace in and for said county; one moiety of said fine to be paid to the president of the board of commissioners of the said town of Georgetown, for the use and benefit of said town, and the other moiety thereof to be applied to the use and benefit of the person impounding such animal as hereinafter provided. Penalty for suffering goats, &c., to be at large.

SECTION 3. That it shall be the duty of the constable resident in the said town of Georgetown, and of any and every officer of police of said town, upon information coming to their knowledge, either by personal observation or otherwise, of any violation of the provisions of the preceding section, to cause such animal or animals so running at large to be forthwith impounded; notice of such impounding shall be given by such officer to the owner or owners of such animal in writing, if the owner or owners be known, and if unknown, by notices posted in five of the most public places in said town, describing the animals by general Impounding

description, and the owner or owners shall, in addition to the fine imposed by the preceding section of this act, pay to the officer impounding the same the sum of one dollar and all costs which may have accrued for keeping the same.

Of the redemption and sale of the animal impounded.

SECTION 4. That if the owner or owners of any such animal impounded as provided by Section 3 of this act do not, within five days from the service of notice of such impounding, or the posting of notices as provided by said Section 3, come forward, prove their property and pay the person so impounding the said sum of one dollar, the fine imposed by the preceding sections, and all costs, the said officer shall advertise the property for sale by giving public notice thereof for the space of ten days, three of said notices being posted in the town of Georgetown and three in the other most public places in Georgetown hundred. Said sale shall be by public auction, and the money arising therefrom, after deducting all costs, fees and fines, shall be paid over to the owner or owners of such property so sold, and if the person to whom the same belongs shall refuse to accept the same, the officer in whose possession it is may deposit the same in the Farmers' Bank of the State of Delaware, at Georgetown, to the credit of the person entitled to the same, and such deposit shall forever discharge and acquit said officer from all liability to said owner for said sum of money.

Passed at Dover, March 21, 1867.

CHAPTER 178.

CONCERNING THE INCORPORATION OF SEAFORD.

12 Vol. 613. *An Act to amend and revise an act entitled, "An act to incorporate the town of Seaford, and for other purposes," passed at Dover, March* 15, 1865.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Section 3 amended, how.

SECTION 1. That Section 3 of said act be amended by striking out the words "who shall be residents of the said and free-

holders" after the letters "P. M.," and insert in lieu thereof the words "for five commissioners who shall reside in said town and be freeholders therein." Amend Section 4 by striking out the word "pavement," after the word "the," in fifth line, and insert the word "improvement" in lieu thereof. Amend Section 5 by striking out the word "exceeding," after the word "dollars," in fourth line, and insert in lieu thereof the words "exclusive of" in the place thereof; insert the words "to be," after the word "place," in the twenty-third line; strike out the words "each day," in twenty-fifth line, between the words "at" and "to," and insert the words "such time."

Section 4 amended, how.

Section 5 amended, how.

SECTION 2. *And be it further enacted by the authority aforesaid,* That this act shall be deemed and taken to be a public act, and that [in] every edition of the laws hereafter to be published, the said act of incorporation shall be published as [it] is hereby amended.

Public act.

Future publications.

Passed at Dover, February 21, 1867.

CHAPTER 179.

CONCERNING THE INCORPORATION OF ST. GEORGES.

6 Vol. 522.
12 Vol. 350.

SEC. 1. Part of original act revoked.

An Act to revoke in part an act entitled, "An act for the Incorporation of the Town of St. Georges."

6 Vol. 522.
12 Vol. 350.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act of incorporation of the Town of St. Georges is hereby revoked, so far as relates to that part lying south of the Delaware and Chesapeake Canal, and for said part is hereby rendered null and void.

Part of original act revoked.

Passed at Dover, March 11, 1867.

CONCERNING CITIES AND TOWNS.

CHAPTER 180.

DOVER ACADEMY.

An Act to incorporate the Dover Academy, and for other purposes.

Certain school districts incorporated.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring therein), That all the school districts, or parts of schools districts, being in whole or in part in the town of Dover, Numbers 18, 60, 90, 91, 92 and 101, or which now receive the benefits of the schools kept in said town, be and they are hereby declared incorporated into one common school district, to be governed and managed by five trustees to be annually elected by the school voters of said district to serve for the term of one year and until successors shall be duly elected; they shall have full power and authority to levy and raise by taxation, in the same manner as such taxes are assessed, levied and collected under the law "Concerning Free Schools in this State," such sum of money as they shall deem necessary for the erection of suitable buildings for the accommodation of all the scholars of proper age residing within said districts, and for the support of the school or schools to be taught therein; also, to employ all the teachers necessary to carry into effect the objects of this corporation. And it is hereby declared to be the duty of said trustees, and the intention of this act, that they shall *make ample provision for the tuition of scholars from the primary branches of an education up to and including a full academic course;* and generally to do all other acts and things incident to such a corporation: *Provided,* That the amount to be raised by taxation in any one year for the erection of buildings, or the support or maintenance of the schools, shall be determined by the school voters at the annual meeting, and that no greater sum than two thousand dollars shall be raised by the regular tax in any year for the support of the schools of said district, or the erection of buildings.

Trustees to be annually elected to manage the same. Their powers and duties.

Proviso. Taxation limited.

SECTION 2. And be it further enacted as aforesaid, That all the

property, both real and personal, or mixed, now held by the six united or consolidated districts, under this act shall be deemed, taken and held to be the common property of all said districts as united or consolidated by virtue of this act. And in all the future distributions of the school fund of this State, among the several school districts thereof, the Trustee of said fund shall treat this consolidated district as six districts, and make the distribution accordingly. The trustees to be elected pursuant to Section 1 of this act may, in their discretion, admit into said school or schools, to be conducted under this act, persons residing out of the limits of this corporation, or persons over the age of twenty-one years, on such terms as they shall deem just and equitable, and the proceeds of the tuition of scholars so admitted shall be paid over to the treasurer of said institution as a part of the common fund thereof.

Property of consolidated districts.

Of the admission of scholars not resident in the district.

SECTION 3. *And be it further enacted as aforesaid,* That if the trustees herein mentioned shall deem it imprudent to raise by taxation the whole sum necessary to carry into effect the objects of this corporation at one time, they may, in their discretion, levy and raise by taxation such portion thereof as they may deem proper, and borrow, on bond and mortgage on the property of said school district, or consolidated school districts, or otherwise, the balance of the sum necessary to carry into effect the objects and designs of this act, and to liquidate the same by annual installments, or otherwise, as may be agreed upon by said trustees and the party or parties making such loan.

Money how raised, if taxation be deemed imprudent.

SECTION 4. *And be it further enacted as aforesaid,* That the trustees to be elected as aforesaid shall be property holders within the limits of said corporation, and shall have resided therein at least one year before their election as such trustees. They shall have full power and authority to erect the necessary building or buildings on the lot or lots now owned by said district or districts; or, if deemed best, to sell any one or all the lots now owned by said district or districts, and to purchase another location more suitable for the purposes contemplated by this act: *Provided however,* That before any such sale of the present property of said district or districts shall be made as aforesaid, the said trustees shall call a meeting of the voters of said district or districts, and lay before them the new location proposed for the erection of the school buildings aforesaid, and a vote shall be taken for and against such change; and if a majority of the voters present at such election shall vote in favor of making the change proposed as aforesaid, then said trustees are hereby authorized and empowered to sell and dispose of all the present property of said district or districts, or such part thereof as shall be agreed upon by the voters of such district or districts, and

Qualifications of trustees.

Present property of said districts may be sold.

How.

execute a deed or deeds for the same, under the hands and seals of said trustees, or a majority of them, which deed or deeds so as aforesaid executed shall convey and transfer to the purchaser or purchasers all the right and title of said district or districts of, in and to the property so as aforesaid conveyed; and said trustees shall take from the person or persons of whom said new property shall have been purchased, a deed in such manner as shall secure a good and valid title to said district or districts in such lands and premises, so as aforesaid purchased, forever.

Title of purchaser.

Corporate name.

SECTION 5. *And be it further enacted as aforesaid,* That when the necessary structures and buildings shall have been erected and completed, the same shall be deemed and by force of this act shall become a corporation by the name, style and title of the "Dover Academy," and may have and use a common seal, and the same from time to time alter or renew, as shall be deemed proper by the trustees thereof. They shall appoint one of their board treasurer, who shall give bond in twice the amount estimated to come into his hands as treasurer, as aforesaid. All bills against said institution shall be audited by said trustees, or a majority of them, and paid by drafts on the treasurer, and the drafts so drawn and paid by said treasurer shall be the vouchers from which the account of said treasurer shall annually be settled.

Treasurer.

Bills against institution how audited and paid.

Supplemental tax.

SECTION 6. *And be it further enacted as aforesaid,* That the trustees annually to be elected shall have full power and authority to levy and collect a supplement tax, outside and beyond the regular tax to be annually assessed, which shall be laid upon such persons as are receiving the greatest amount of benefit from said schools, in such proportions as said trustees shall deem equitable and just in the premises, which tax shall be collected the same as the regular taxes are collected, and subject to all the laws for the collection of said regular taxes. Said trustees shall receive no compensation for their services, except such as may be voted them at the annual election for trustees. Said trustees shall, annually, lay before the voters of said district, at the annual election for trustees, a full account of their doings in the premises since their election, embracing the number of scholars taught, the department in which they have been taught, the number of teachers employed, and the sum paid to them respectively, with any other information in relation to the conducting of said schools that they may deem of interest to the voters of said district.

Trustees to receive no compensation.

Their annual report.

Restriction on supplemental taxation.

SECTION 7. *And be it further enacted by the authority aforesaid,* That no supplement tax shall be assessed upon the inhabitants of said district under the provisions of Section 6 of this act, in any year, unless a tax equivalent to three hundred dollars, clear

of delinquents and commissions, shall have been levied and raised for each of the districts composing this consolidated district, to wit: the sum of eighteen hundred dollars as the regular tax of said district. The election for trustees under this act shall be held at the same time as the school elections of this State are held for school committees. The trustees to be so elected shall make, or cause to be made, the necessary assessments on the persons and property of said district, and hold a court to hear any and all appeals therefrom, the same as is provided by law in regard to other school districts of this State.

Election for trustees. When held.

Assessments

SECTION 8. *And be it further enacted as aforesaid,* That this act shall be deemed an incorporation for public improvement, and shall be perpetual or without limitation, reserving nevertheless to the Legislature the right to alter, amend, or repeal the same for abuse or misuse of its corporate franchises.

Incorporation for public improvement.

SECTION 9. *And be it further enacted,* That the provisions of this act shall only apply to and include such school districts of the town of Dover as shall, at a meeting to be called for that purpose, accept the same by a majority of the school voters at such meeting, of which due notice shall be given by written advertisement, posted in five of the most public places in the district. Such notice shall be given by the present school committees of the respective districts, or the clerks thereof, stating the day, hour and place of meeting, and the purpose for which it is called; all votes shall be given by ballot at said election, and it shall be the duty of the officers appointed to conduct such election to certify, under their hands and seals, the acceptance or non-acceptance of this act to the Clerk of the Peace of Kent county, who shall file the same in his office. In voting, those in favor shall vote "aye," and those opposed "no."

Act to be accepted by different districts.

Passed at Dover, March 22, 1867.

CONCERNING BANKS.—RAILROADS.

CHAPTER 181.

OF BANKS.

12 Vol. 342. *An Act to amend an act entitled, "An Act to incorporate a Bank in Seaford, in the County of Sussex, under the name of 'The Diamond State Bank.'"*

Section 10, Chapter 315 amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 10 of the act entitled, "An act to incorporate a bank in Seaford, in the county of Sussex, under the name of 'the Diamond State Bank,'" passed at Dover, March 19, 1863, be amended by striking out the words "semi-annually," in the second line, and inserting the word "annually," after the words "per centum," in the third and fourth lines of said section.

How

Passed at Dover, February 5, 1867.

CHAPTER 182.

DOVER AND MAHON'S RIVER RAILROAD.

12 Vol. 526. *A Supplement to the act entitled, "An Act to incorporate the Dover and Mahon's River Railroad Company," passed at Dover, January* 24, 1865.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein), as follows:

Extension of D. & M. R. R. authorized, so as to unite with M. & D. R. R.

SECTION 1. That the Dover and Mahon's River Railroad Company be and they are hereby authorized and empowered to extend their railroad so as to unite the same with the Maryland and Delaware Railroad, at any point within the limits of Kent county, in the State of Delaware, that may be for that purpose selected by the said company, with the consent of the Maryland *and Delaware* Railroad Company, and upon such terms and con-

ditions as shall be agreed upon between the said Dover and Mahon's River Railroad Company and the Maryland and Delaware Railroad Company, which said consent, agreement, terms and conditions shall be in writing, authenticated by the common seals of said companies, and that all the grants, powers, liberties, privileges, franchises and immunities granted and conferred by the act to which this is a supplement, be and the same are hereby granted and conferred to and upon the said Dover and Mahon's River Railroad Company, for the purpose of making, completing and effecting the extension herein and hereby authorized.

Consent or agreement of the companies.

SECTION 2. That for the purpose of carrying into effect the extension hereby contemplated, the said Dover and Mahon's River Railroad Company shall have full power to enter in and upon and use and occupy the lands of any individual or corporation, and may lay down the track of their railroad across the same and across the track of the Delaware Railroad, or any other railroad that may now or hereafter be constructed in Kent county, and which it may be necessary to cross for the purpose aforesaid, the said Dover and Mahon's River Railroad Company paying to the individual or corporation, or depositing in the Farmers' Bank of the State of Delaware, to his or their credit, the damages which may be assessed according to the provisions of the act to which this is a supplement, and may cross any public or private road: *Provided,* That the said Dover and Mahon's River Railroad Company, in crossing the track of any other railroad, shall construct their crossing in such a manner that the same shall not impede or obstruct the passage of any car or locomotive upon the roads so crossed.

Condemnation of lands and crossing the Del.R.R.

SECTION 3. That the act entitled, "An act to incorporate the Dover and Mahon's River Railroad Company," to which this is a supplement, be and the same is hereby amended as follows: First, by striking out the words "and make," occurring between the words "property" and "affairs," in lines five and six of Section 6; second, by striking out the word "neither," occurring in line eight (8), Section 11, and inserting in lieu thereof the word "within."

Secs. 6 and 8 of original act amended

SECTION 4. That this act shall be accepted by a majority of the stockholders in the said Dover and Mahon's River Railroad Company, at a meeting to be therefor called by the directors of said company, within six months from the passage hereof, or the same shall be null and void; such acceptance, if the act shall be accepted, shall be certified under the hands of the President and Secretary, and seal of the corporation, to the Secretary of State of this State, who shall make an entry thereof upon the Executive Register, and shall also file such certificate of acceptance in his office.

Acceptance of act.

Passed at Dover, January 24, 1867.

CONCERNING RAILROADS.

CHAPTER 183.

NAME OF THE DOVER AND MAHON'S RIVER RAILROAD CHANGED.

An Act to change the name of the "Dover and Mahon's River Railroad Company."

Name of company changed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the name of the Dover and Mahon's River Railroad Company be and the same is hereby changed to that of "The Delaware Central Railroad Company," by which last mentioned name the said company shall hereafter be known and designated.

Certain acts amended so as to conform to new name

SECTION 2. *And be it further enacted,* That the act entitled, "An act to incorporate the Dover and Mahon's River Railroad Company," passed at Dover, January 24, 1865, and the act entitled, "A supplement to the act entitled, 'An act to incorporate the Dover and Mahon's River Railroad Company,'" passed at Dover, January 24, 1867, be and the same are hereby amended by striking out the words "Dover and Mahon's River Railroad Company," (wherever they occur in the titles to said acts, and in the bodies of said acts,) and inserting in lieu thereof the words, "Delaware Central Railroad Company."

Passed at Dover, February 26, 1867.

CHAPTER 184.

DORCHESTER AND DELAWARE RAILROAD.

An Act to incorporate the Dorchester and Delaware Railroad Company, in this State.

Preamble.

WHEREAS under the provisions of an act of the General Assembly of the State of Maryland, passed on the sixth day of

CONCERNING RAILROADS.

February, in the year of our Lord one thousand eight hundred and sixty-six, entitled, "An act to incorporate the Dorchester and Delaware Railroad Company, and to direct the payment to the said company of the sum of money pledged by the act passed at January session, eighteen hundred and sixty, Chapter three hundred and three, to works of internal improvements in Dorchester county," the Dorchester and Delaware Railroad Company has become incorporated and are authorized and empowered to locate and construct a railroad from the town of Cambridge, in Dorchester county, to the line dividing the States of Maryland and Delaware at such point as shall be deemed by the president and directors to be the most eligible, and thence to connect with the Delaware Railroad by such route and at such point as may be authorized and allowed by charter to be obtained from the Legislature of the State of Delaware; therefore

Incorporation.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring),* That the subscribers to the stock of the Dorchester and Delaware Railroad Company, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of the Dorchester and Delaware Railroad Company, and by that name shall have perpetual succession, and be capable in law of purchasing, receiving, holding, using, selling, leasing, mortgaging and conveying goods and chattels, lands and tenements and hereditaments and all estate, real, personal and mixed whatsoever, may sue and be sued, plead and be impleaded in all courts of this State, may make, have and use a common seal, and the same may alter and renew at pleasure, and also may ordain, establish and enforce such by-laws and regulations as they shall deem necessary and proper for the government of said corporation not repugnant to the constitution and laws of this State and of the United States, and generally may do all such acts and things, and exercise and enjoy all rights, powers, privileges and immunities which to them as a corporation may properly appertain and [be] necessary for the well being and management of the said corporation: *Provided,* That nothing herein contained shall be construed as in any way giving to the said company any banking privileges whatsoever, or any other powers or privileges than such as are necessary or incident to the making and proper management of the railroad mentioned in this act.

Name.

Corporate powers

Extension of the D. & D. R. R. authorized.

SECTION 2. *Be it enacted by the authority aforesaid,* That the Dorchester and Delaware Railroad Company be and they are hereby authorized and empowered to extend and construct their said railroad within the limits of this State, from the point on the line dividing the States of Maryland and Delaware where

Location of road.

the said railroad may be located by the said company to the Delaware Railroad, at such point between the Nanticoke River, near Seaford, and the branch north-west of Bridgeville, in Sussex county, known as the Bridgeville Branch, as shall be deemed by the president and directors of said company most eligible and proper, and for that purpose may enter upon any land necessary for locating, laying out, or making the same, or any part thereof, or to procure land, gravel, earth, wood or timber for such use and purpose, and to obtain the right or title to the same, as is hereinafter provided.

Condemnation of lands for road.

SECTION 3. *Be it enacted by the authority aforesaid,* That whenever application shall be made by the company for this purpose, the Judge of the Supreme* Court of this State, resident in Sussex county, in vacation, or any one of the Judges of said Court, in term time, shall appoint five commissioners, and whenever it shall be necessary for the said company to enter in, and upon, and occupy, for the purpose of making said railroad, any lands upon which the same may be located, if the owner or owners of of said land shall refuse to permit the entry and occupation of the same, and the parties cannot agree upon the compensation to be made for any injury, or supposed injury that may be done to said land by such entry and occupation, or if such owner or owners be minors, or do not reside in this State, or from any cause be incapable to contract, the said commissioners, on being notified by the said company, shall go upon the said land and assess the damages of such owner or owners, on oath or affirmation, fairly and impartially; and the said commissioners shall certify their finding and award to both parties; but if either party be dissatisfied with the damages so assessed, the party so dissatisfied may, on application to the Prothonotary of the Superior Court in and for Sussex county, within thirty days after such assessment of damages shall have been made, sue out a writ of *ad quod damnum,* requiring the Sheriff of said county, in the usual form, to inquire, by twelve impartial men of his bailiwick, of the damages as aforesaid, and their report shall be final. The said commissioners shall, in assessing the damages as aforesaid, award at least the actual cash value of the land so to be taken and used as aforesaid; whereupon the company, upon paying the damages assessed as aforesaid, or upon depositing the same to the credit of such owner or owners in the Farmers' Bank at Georgetown, shall become entitled to have, hold, use and enjoy, for the purposes aforesaid, the said lands forever. And in case of the death of any such commissioner appointed as aforesaid, the Governor shall appoint another to fill every such vacancy. The expenses of the assessment by the said commissioners of the damages aforesaid shall be paid by the said company.

Writ of ad quod damnum.

Company to have the land on paying or depositing the damages

* So in enrolled bill.

CONCERNING RAILROADS.

SECTION 4. *Be it enacted by the authority aforesaid,* That it shall be the duty of said company to construct and keep in repair good and sufficient passages across said railroad, where any public road shall intersect and cross the same, so that the passage of any carriages, wagons, horses, persons and cattle along the said public roads shall not be obstructed, and shall also, when the said railroad intersects any farm, provide and keep in repair suitable passages across the said railroad for the use of said farm. It shall also be the duty of the said company, whenever the said railroad shall pass through any enclosed land, to fence the same on each side of the line of said railroad, so that the said lands shall not be exposed and thrown open by reason of said railroad passing through the same, unless by the agreement of the said company and the owner or owners of the said lands the former shall be released from the duty of fencing as aforesaid. Crossings. Fences.

SECTION 5. *Be it further enacted by the authority aforesaid,* That upon the completion of said railroad, or any section thereof, it shall and may be lawful for the said company to demand and receive such sum or sums of money for tolls of persons or property as they shall, from time to time, think reasonable and proper. Power of company to charge tolls.

SECTION 6. *Be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully and knowingly break, injure or destroy the railroad, or any part thereof, to be erected or constructed by said company in pursuance of this act, or shall, in any manner, obstruct the free passage along the said railroad, he, she or they shall forfeit and pay to the said company three times the actual damage so sustained, to be sued for and recovered with costs of suit before any justice of the peace, or in the Superior Court of this State in any county of the State, by action of debt, or on the case in the name and for the use of said company. Penalty for injury to road.

SECTION 7. *Be it further enacted by the authority aforesaid,* That the said company shall have full power and authority to buy, lease, build and hold houses, shops and real estate necessary for their corporate purposes, and when the final survey of any part or parts of said railroad shall be made by the company's engineer, such survey shall be recorded in the Recorder's office of the county where the land surveyed is situated, and the record thereof shall be evidence of the route and limits of said road. Company authorized to hold property. Surveys of road.

SECTION 8. *Be it further enacted by the authority aforesaid,* That the said Dorchester and Delaware Railroad Company shall have the right to connect their said railroad with the said Delaware Railroad upon the terms and conditions which may be Connection with the Del. R. R. authorized.

agreed upon by the said Dorchester and Delaware Railroad Company and the Delaware Railroad Company, and from and after the period when such connection shall be formed as aforesaid, it shall be the duty of the said companies to grant every facility for the transmission and transportation of passengers and freight coming and passing from one road to the other, and upon the same terms and conditions in all respects that may be extended to their own passengers and freights respectively.

Power of revocation.

SECTION 9. *Be it further enacted by the authority aforesaid,* That in case the said company shall at any time abuse the privileges hereby granted, and shall be lawfully convicted of such abuse, the Legislature shall have the power to amend or revoke this act, and to modify or amend the privileges hereinbefore conferred upon the said Dorchester and Delaware Railroad Company.

President and directors to form union with Del. R. R.

Capital stock of different companies to be common stock.

SECTION 10. *Be it further enacted by the authority aforesaid,* That the president and directors of the said company are hereby authorized and empowered to form a union with the Delaware Railroad Company, and with such other companies as the Delaware Railroad Company are authorized to unite with so that the capital stock of the said companies respectively shall constitute a common stock, and the respective companies shall constitute one company and be entitled to all the rights, privileges and immunities which each and all of them possess, have and enjoy under and by virtue of their respective charters; or the Dorchester and Delaware Railroad Company hereby incorporated may contract with any of the said companies for the conveyance of passengers, and any article whatsoever, and upon any terms not prohibited by the laws of this State.

Passed at Dover, January 30, 1867.

CONCERNING RAILROADS.

CHAPTER 185.

THE DELAWARE AND CHESTER COUNTY RAILROAD.

An Act to incorporate the Delaware and Chester County Railroad Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-*

Commissioners appointed.

thirds of each branch thereof concurring), That John A. Duncan, James Bradford, Evan C. Stotsenburg, Samuel Barr, George G. Lobdell, Daniel H. Kent, John G. Jackson, George Capelle, George Z. Tybout, Anthony Reybold, William Couper, James C. Jackson, William G. Philips, Edward Mendenhall, George Springer and James Springer, or any three of them, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they shall, at such time or times as they may deem expedient, procure and open two or more books at such place or places as they may think proper, in each of which they shall enter as follows: "We, whose names are hereunto subscribed, do promise to pay to the president and directors of the Delaware and Chester County Railroad Company the sum of fifty dollars for each and every share of stock set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and directors of the said company in pursuance of an act of the General Assembly of this State, entitled, "An act to incorporate the Delaware and Chester County Railroad Company." Witness our hands this——day of————, A. D. one thousand eight hundred and———;" and after giving such notice as to them shall seem proper, they shall permit all persons of lawful age who shall offer to subscribe in the said books in their own names, or in the name of any other person or company who shall authorize the same, for any number of shares in the said stock.

Their duties.

What entry to be made in company's books.

Who can subscribe.

Company incorporated.

SECTION 2. *And be it further enacted by the authority aforesaid*, That when and as soon as one thousand shares shall be subscribed, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of *The Delaware and Chester County Railroad Company*, and by the same name the subscribers shall have perpetual succession, and be able to sue and be sued, implead and be impleaded in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors lands, tenements and hereditaments, goods, chattels, and all estate, real, personal and mixed, of what kind and quality soever, and the same from time to time to sell, mortgage, grant, alien or dispose of, and to make dividends of such portions of the profits as they may deem proper, and also to make and have a common seal and the same to alter and renew at pleasure, and also to ordain, establish and enforce such by-laws and regulations as shall be deemed necessary and convenient for the government of the said corporation not being repugnant to the constitution and laws of this State and of the United States, and generally to do all and singular the matters and things which to them it shall lawfully appertain

Name.

Powers.

to do for the well being and ordering of the same: *Provided,* That nothing herein contained shall be considered as in any way giving to the said corporation any banking privileges whatsoever, or any other liberties, privileges or franchises but such as may be necessary or incident to the making and proper arrangement of the said railroad.

First meeting, when, where and for what purposes held.

SECTION 3. *And be it further enacted,* That the commissioners aforesaid, as soon as conveniently may be, after one thousand shares shall be subscribed as aforesaid, shall give notice in two of the Wilmington newspapers, and in such other newspapers as they shall deem proper, for at least ten days, of the time for the said subscribers to meet in the City of Wilmington in order to organize the said company and to choose, by a majority of the votes present, to be given in person or by proxy, nine directors, a majority of whom shall be residents of this State; and the said directors shall conduct the business of the said company until the second Monday of January next ensuing their election, and until like officers shall be chosen, and may make such by-laws, rules and regulations as are not repugnant to the constitution and laws of this State and of the United States, and that may be necessary to the well governing the affairs of said company, subject to be altered, extended, or repealed by them, or any future board of directors.

Annual meetings of stockholders

To choose officers for ensuing year.

Special meetings.

Powers of stockholders at annual or special meetings.

Each share to entitle holder to one vote.

Exceptions.

SECTION 4. *And be it further enacted,* That the stockholders shall meet on the second Monday in January in each and every year after the original organization of the company as aforesaid, upon notice, which shall be given by the secretary in the newspapers aforesaid at least ten days previous, and shall choose by a majority of the votes present their officers for the ensuing year as mentioned in the third section of this act, (who shall continue in office for one year and until others are chosen,) and at such other times as they may be summoned by the directors in such manner and form as they shall prescribe by the by-laws, at which annual or special meetings they shall have full power and authority, by a majority of votes, in manner aforesaid, to do and perform every proper and corporate act; and the number of votes to which each stockholder shall be entitled shall be according to the number of shares he shall hold, each share entitling him to one vote, but no share shall confer a right of suffrage which shall not have been held three months prior to the day of election, nor unless it be holden by the person in whose name it appears, absolutely and *bona fide* in his own right, or in that of his wife, or for his or her sole use or benefit, or as executor or administrator, trustee or guardian, or in the right and for the use and benefit of some copartnership, corporation or society of which he or she may be a member, and not in trust for and to

the use and benefit of any other person. And in all voting by proxy the attorney shall be legally constituted under the hand and seal of the party, and the authority properly authenticated when, according to the laws of this State, such authentication is necessary.

Voting by proxy. Election of directors, how conducted.

SECTION 5. *And be it further enacted,* That the election of directors provided for in the preceding section shall be conducted in the following manner, that is to say: The directors for the time being shall appoint two of the stockholders, not being directors, to be judges of the said election and to conduct the same after having severally taken and subscribed an oath or affirmation before some proper officer well and truly and according to law to conduct such election; and the said judges shall decide upon the qualifications of voters, and when the election is closed shall count the votes and declare who has been elected, and if it shall at any time happen that an election of directors shall not be made the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of directors on the same day, or any day thereafter, by giving at least ten days notice (signed by the president or secretary) in the newspapers before mentioned of the time and place of holding said election; and the directors of the preceding year shall in that case continue to act and be invested with all the powers belonging to their office until another election shall take place. In case of the death, resignation or removal from the State of any director, his place shall be filled by the board of directors until the next annual election: *Provided,* the removal of a director from this State shall not operate to vacate his place should there be a majority of directors still residing in this State.

Non-election of directors not to dissolve corporation.

Notice of the time and place for election. Continuance in office.

Vacancies, how filled.

Meetings of directors, where held.

Quorum. Election of President and other officers. Powers of directors, to fix salaries.

To make calls.

SECTION 6. *And be it further enacted,* That the said board of directors shall hold their meetings in the City of Wilmington, or in such other place as they may adopt, and when met five shall constitute a quorum. They shall elect a president and secretary and treasurer, and such other officers as may be required for the transaction of their business and for carrying on the intended work, and shall have power to fix their salaries and wages, to ascertain the times, manner and proportion in which the said stockholders shall pay the moneys due on their respective shares, and generally to do all such other acts, matters and things as by this act and by the by-laws and regulations of the company they are authorized to do.

Certificates of stock.

SECTION 7. *And be it further enacted,* That the board of directors first chosen shall procure certificates or evidences of stock for all the shares of said company, and shall deliver one such *certificate, signed* by the president and countersigned by the

treasurer, and sealed with the common seal of said corporation, to each person or party entitled to receive the same according to the number of shares by him, her or them respectively subscribed or held, which certificates or evidences of stock shall be transferable at the pleasure of the holder, in person or by attorney duly authorized, in the presence of the president or treasurer, in a suitable book or books, to be kept by the company for that purpose, (subject to all payments due or to become due thereon,) and the assignee, or the party to whom the same shall have been so transfered, shall thereupon be a member of said corporation and have and enjoy all the immunities, privileges and franchises, and be subject to all the liabilities, conditions and penalties incident thereto in the same manner as the original subscriber would have been: *Provided,* That no certificate shall be transferred so long as the holder thereof is indebted to said company, unless the board of directors shall consent thereto: *And provided,* That no such transfer of stock shall have the effect of discharging any liabilities or penalties theretofore incurred by the owner thereof.

To whom delivered.

Certificates of stock transferable. How.

Assignee to be a member of the corporation.

Proviso.

SECTION 8. *And be it further enacted,* That if, after thirty days' notice in the public papers aforesaid of the time and place appointed for the payment of any portion or installment of the said capital stock in order to carry on the work, any stockholder shall neglect to pay such proportion or installment, at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his or her assignee shall, in addition to the installment so called for, pay at the rate of two per cent. per month for the delay of such payment; and if the same and the additional penalty shall remain for such space of time as that the accumulated shall become equal to the sum before paid in part and on account of such shares, the same shall be forfeited to the said company, and may be sold to such person or persons willing to purchase for such price as can be obtained for the same; or in default of payment by any stockholder of any such installment as aforesaid, the president and directors may, at their election, cause suit to be brought before any justice of the peace, mayor of the City of Wilmington, or in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid: *Provided,* That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, on whose share or shares any installment or arrearages may be due and payable more than thirty days previous to said election or meeting.

Penalty for refusing to pay call within thirty days.

President and directors may bring suit for the amount of the calls and penalty.

No stockholder entitled to vote who has not paid his calls within thirty days.

SECTION 9. *And be it further enacted,* That the president and directors of the said company shall demand and require of and *from the said treasurer,* and from such other officers and persons

Treasurer to bond, other officers to bond when required.

by them employed as they may deem necessary, bond in sufficient penalties and with such sureties as they shall, by their by-laws, rules and regulations require for the faithful performance of the several duties and trusts to them or any of them respectively committed.

Dividends.

SECTION 10. *And be it further enacted,* That dividends of so much of the profits of the company as shall appear advisable to the directors shall be declared at least twice in every year and paid to the stockholders on demand at any time after the expiration of ten days therefrom; but they shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock shall never be thereby impaired. If the said directors shall make any dividends which shall impair the capital stock of said company, the directors consenting thereto shall be liable, in their individual capacities, to said company for the amount of the stock so divided, and each director present when such dividend shall be made, shall be adjudged to be consenting thereto unless he forthwith enter his protest on the minutes of the board and give public notice to the stockholders at the declaring of such dividends.

Not to exceed the net profits of the company. Directors liable for declaring dividends exceeding profits. Directors present deemed to consent unless, &c.

Directors to exhibit statement of the affairs of company at annual meetings. Special meetings, how called.

SECTION 11. *And be it further enacted,* That at each annual meeting of the stockholders the directors of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for the preceding year, and that special meetings of the stockholders may be called by order of the directors, or by stockholders holding one-fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying, moreover, the object of the meeting. But no business shall be transacted at such special meeting, unless a majority in value of the stockholders shall attend in person or by proxy.

Nature of the business to be transacted.

Company authorized to construct railroad. Where.

SECTION 12. *And be it further enacted,* That the said company be and they are hereby authorized to locate and construct a railroad, beginning at a point on the Christiana River, at or near to the junction of the Philadelphia, Wilmington and Baltimore Railroad with the New Castle and Wilmington Railroad, and extending to the line of this State, in, or nearly in the direction of Parksburg or Penningtonville, in State of Pennsylvania, by such eligible route (passing through the limestone valley of Hockessin,) as will be favorable for the transportation of lime, so important to the agricultural and building interests of this State, together with the power of constructing a branch from the beginning point of the same to the City of Wilmington, and such other lateral roads, or branches or extensions, not exceeding *eight miles* in length, as occasion may require, and for these *purposes to* enter upon any lands necessary for locating, laying

Branch road authorized.

out, or making the same, or to procure sand, gravel, earth, or stone for such use, and to obtain title and right to the same, as hereinafter provided: *Provided,* That neither the said railroad, nor any of its branches, shall be laid so as to pass through any burying ground, or place of public worship, nor through any dwelling house without the consent of the owner thereof: *And provided,* That before the company shall enter upon or take possession of any lands or materials required for the construction or location of the said road, they shall make compensation to the owner or owners thereof, or shall tender adequate security therefor. And the said company may lay down the track of their railroad across any other railroad that may now or hereafter be constructed in this State, and which it may be necessary to cross for purposes aforesaid: *Provided,* That in crossing the track of any other railroad, they shall construct their crossing in such a manner that the same shall not impede or obstruct the passage of any car or locomotive upon the road or roads so crossed: *And provided further,* That the corporation whose track is thus crossed may claim and obtain damages according to the provisions of this act.

May enter upon land for these purposes. Shall not pass through any burying ground.

Lands not to be taken until compensation be made to owner.

Crossing other railroads authorized.

Proviso.

SECTION 13. *And be it further enacted,* That when it shall be necessary for the president and directors of the said company, or their agents, to enter in, upon, and occupy, for the purpose of making said railroad, any lands the owners of which refuse to permit such entry and occupation, then it shall be lawful for the Superior Court of New Castle county, if in term time, or any judge of said court in vacation, on application of either party, and at the cost and charge of said company, to appoint five disinterested men of said county, who shall go upon the said lands and assess the damages of such owner or owners fairly and impartially, taking into consideration all the benefits to be derived from or in consequence of the said railroad to the said owner or owners, and the said commissioners shall certify their finding and award to both parties; whereupon the company, on paying the damages so assessed, shall become entitled to have, use and enjoy the said lands for the purposes required by them forever. And in case any owner or owners of lands necessary for the purposes of said company shall be a minor or non-resident, or for any cause incapable of receiving, or unwilling or neglecting to receive said damages, or to call on the company for the same, the said company may deposit the amount of the said damages to the credit of such owner or owners in the National Bank of Wilmington and Brandywine, subject to his, her, or their order, whereupon the said company shall be entitled to have, use and enjoy the said lands and premises required for the purposes of said company for and on account of which damages shall have

Remedy of company against the owners of lands refusing to permit entry.

Commissioners to certify award to both parties.

Owners under disability or refusing to accept damages, company may deposit them in bank.

Whereupon company to have title.

Expenses of assessing damages.

been so assessed. The expenses of the assessment of said damages shall always be paid by the said company.

Crossings over public roads.

SECTION 14. *And be it further enacted,* That the said railroad shall be so constructed by the said company as not to impede or obstruct the free use or passage of any public road or roads which may cross or enter at the same, being now laid out or to be hereafter laid out, and in all places where the said railroad may cross, or in any way interfere with any public road, it shall be the duty of the said company to make and maintain, or cause to be made and maintained, a good and sufficient causeway or causeways to enable all persons passing or traveling such public roads to cross or pass over or under the said railroad, and that for the accommodation of all persons owning or possessing land through which the said railroad may pass, it shall be the duty of the said company to make and maintain, or cause to be made and maintained, a good and sufficient causeway or causeways whenever the same may be necessary to enable the occupant or occupants of said lands to cross or pass over the same with wagons, carts, or implements of husbandry, as occasion may require: *Provided,* That the said company shall in no case be required to make and maintain, or cause to be made and maintained, more than one such causeway through each plantation or tract of land for the accommodation of any one person owning or possessing land through which the said railroad may pass, and where any public road shall cross such railroad the person owning or possessing land through which the said railroad may pass shall not be entitled to make such requisition on said company. And if the said company shall neglect or refuse to make such causeway or causeways on request, or when made to keep the same in good repair, then said company shall be liable to pay any person aggrieved thereby all damages sustained by such person in consequence of such neglect or refusal, to be sued for and recovered before any justice of the peace or any court having cognizance thereof; and the service of process upon any officer or agent of said company shall be as good and available in law as if served upon the president thereof.

Other crossings.

One crossing only to one tract of land.

Penalty for neglect to make such crossings.

How recovered.

Service of process

Suit against company for penalties under this act.

SECTION 15. *And be it further enacted,* That no suit or action shall be brought or prosecuted by any person or persons for any penalties incurred under this act unless suit or action shall have been commenced within six months next after the offence shall have been committed or the cause of action shall have accrued, and the defendant or defendants in such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by authority of this act.

SECTION 16. *And be it further enacted,* That if any person or per-

sons shall wilfully or knowingly destroy, injure, or break the railroad or any part thereof, or any work or edifice or device or any part thereof to be erected by the said company in pursuance of this act, he, she or they shall forfeit and pay to the said company three times the actual damages so sustained, to be sued for and recovered with costs of suit before any justice of the peace or in any court having cognizance thereof, by action of debt in the name and for the use of the said company.

Penalty for injury to works of the company.

SECTION 17. *And be it further enacted,* That it shall not be lawful for the said company to use or occupy any street or alley of the city of Wilmington for the purpose of making the said railroad, or any sideling or branch thereof, without first procuring the consent of the city council to such use or occupation.

Company not to use any street in Wilmington without the consent of City Council

SECTION 18. *And be it further enacted,* That this act shall be deemed and taken to be a public act, and the Secretary of State [is] hereby authorized and required to publish the same along with the other laws of this State, and the said company shall have power to increase its capital stock by additional subscriptions to an amount or amounts sufficient to effectuate the objects of this act and to construct the railroad contemplated by it, and from time to time to borrow money for corporate purposes and uses, and to execute mortgages on all their estate, real and personal, and to issue bonds to secure the payment of the same: *Provided,* That the amount so borrowed shall not exceed in the aggregate the sum of three hundred thousand dollars.

Public act.

Capital stock may be increased.

May borrow money.

Not exceeding $300,000.

SECTION 19. *And be it further enacted,* That the said company shall erect and maintain, along the whole line of said railroad, on both sides thereof, before the same shall go into operation, a good and legal fence wherever the same may be necessary: *Provided,* That the said company shall have the right to make special contracts for erecting and maintaining such fences with any persons through whose lands said road shall pass.

Fences.

Proviso.

SECTION 20. *And be it further enacted,* That if at any time a company, properly incorporated by the Legislature of Pennsylvania for the purpose of constructing a railroad in that State to the line of this State, should wish to unite with the railroad contemplated by this act, and it shall be desired by the company hereby incorporated to unite therewith, that then and in such case the president, directors and company of the Delaware and Chester County Railroad are hereby authorized and empowered to unite with such company as above described so that the said companies shall constitute one consolidated company and the stock of the two companies one common stock for the purpose of building a continuous line of railroad as described in Section 12 of this act.

Company may unite with other company to be chartered in Pennsylvania.

When united the companies to form one company.

SECTION 21. *And be it further enacted,* That the said consoli-

Agreement of consolidation.

dation shall be made under the conditions, provisions and restrictions to be prescribed in a joint agreement made by and under the corporate seal of each of the said companies; said agreement

What to state.

to prescribe the mode of carrying the same into effect, the name of the new corporation, the number of shares, and the par value of the capital stock, the number of the directors and other officers thereof, and the places of their residence, and the names of the first directors and officers, and in general all necessary matters not inconsistent with this act: *Provided,* That the said agreement

Agreement to be submitted to stockholders

of consolidation shall become binding only after the same shall (upon due public notice as heretofore specified in this act) have been submitted to the stockholders in public meeting and adopted by them by a two-third vote taken by ballot, (each share of stock entitling the holder to one vote,) and the adoption certified there-

Certificate of adoption.

on by the secretaries of the respective companies under the seals thereof; and the agreement so adopted, or a copy thereof certified

Agreement and certificate, where filed.

as aforesaid, shall be filed in the office of the Secretary of State of the respective States, where it shall remain of record, and a

Certified copy of agreement and certificate evidence of new corporation.

certified copy thereof shall be received in evidence of the existence of the said new corporation, and upon the filing of the said agreement, or a certified copy thereof as aforesaid, the Secretary

Publication of filing of agreement.

of State shall publish the fact, together with the date of filing and the name of the new corporation, and the names of its officers, in two newspapers of this State.

Stock of company deemed transferred to new company

SECTION 22. *And be it further enacted,* That all the stock of the Delaware and Chester County Railroad Company shall be taken liable and subject to such agreement of consolidation, and shall, by the perfecting thereof as aforesaid, be deemed and taken to be effectually transferred to the said new corporation, to be disposed of by the directors thereof; and the said new corporation, under the name, title and conditions prescribed in said perfected agreement, shall possess, within this State, all and singular the

Rights, privileges, &c., of new corporation.

rights, privileges and franchises, and [be] subject to all the restrictions, disabilities and duties of each of the original corporations so consolidated or merged; and all property, real, personal and

All property of the different companies to be vested in new corporation

mixed, and all debts due on whatever account, including stock subscriptions and things in action belonging to each of the said companies, shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed, and all property, all rights of way, and all and every other interest shall be as effectually the property of the new corporation as they were of the original companies or corporations parties to the said agreement; and the title to real estate, either by deed or otherwise, under the laws of this State, vested in either of such companies, shall not be deemed to revert or be in any way impaired by reason of this act: *Provided,* That all rights of credit-

ors and all liens upon the property of either of the said companies or corporations shall be preserved unimpaired, and the respective companies or corporations may be deemed to continue in existence to preserve the same, and all debts, liabilities and duties of either of the said companies or corporations shall thenceforth attach to the said new corporation and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. Rights of creditors.

SECTION 23. *And be it further enacted,* That the said new corporation be and is hereby authorized to receive subscriptions for, and issue such additional shares of capital stock as may be necessary to construct and fully equip the railroad or railroads to be constructed or operated by it; and the said new corporation may, from time to time, borrow money for corporate purposes and uses, and execute mortgages on all or part of their real estate and issue bonds to secure the payment of the same. Subscriptions and additional shares of stock. For what purpose. May borrow money.

SECTION 24. *And be it further enacted,* That in case the Wilmington and Reading Railroad Company shall construct a railroad on any part of the line contemplated by this act, then and in that case it shall be lawful for the company hereby incorporated and the said Wilmington and Reading Railroad Company, to enter into a mutual agreement satisfactory to both companies permitting the company hereby incorporated to use such part of the said Wilmington and Reading Railroad as may be found convenient and desirable as and for a part of the railroad line contemplated by this act. An agreement authorized with the W. & R.R.R. in case a certain road is constructed.

Passed at Dover, February 5, 1867.

CHAPTER 186.

FREDERICA RAILROAD.

A Supplement to the Act entitled, "An Act to Incorporate the Frederica Railroad Company," passed at Dover, February 19, 1857.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly* met, (two-

thirds of each branch of the Legislature concurring therein,) That the Frederica Railroad Company, incorporated by the act to which this is a supplement, be and they are hereby authorized and empowered to increase the capital stock of said company to any amount not exceeding eight hundred thousand dollars, divided into thirty-two thousand shares of twenty-five dollars each; and they are hereby authorized and empowered to change the termini of their said railroad, and to survey, locate and construct a railroad, with one or more tracks, from some point within three miles of the town of Dover to some point on the Junction and Breakwater Railroad, at or near the town of Milford, with a branch or lateral road to the town of Felton, as provided for in the act entitled, "An act to incorporate the Frederica Railroad Company," passed at Dover, February 19, 1857, to which this is a supplement, and may connect their said railroad with the Delaware Railroad, or with the Dover and Mahon's River Railroad, or with either or both of them, upon such terms and conditions as may be agreed upon by and between the said Frederica Railroad Company and the said railroad companies with which such union or junction may be made; and also may connect and unite their said railroad with the said Junction and Breakwater Railroad upon such terms and conditions as shall be agreed upon by the said Frederica Railroad Company and the said Junction and Breakwater Railroad Company.

Increase of capital stock

Change of termini. Construction of other roads authorized.

Union or junction with other companies.

Provisions of original act extended to this supplement

SECTION 2. *And be it further enacted by the authority aforesaid,* That all the provisions of the act to which this is a supplement, so far as the same may be necessary for the purposes aforesaid, be and they are hereby extended and applied to the changes authorized and contemplated by this act, and that all the grants, powers, privileges, rights, franchises, liberties and immunities granted and conferred upon the said Frederica Railroad Company by the act to which this is a supplement, be and the same are hereby conferred upon the said company for the purpose of carrying into full effect and operation the change in the location of their road authorized by this act.

Acceptance by stockholders.

SECTION 3. *And be it further enacted by the authority aforesaid,* That this act shall be accepted by a majority of the stockholders, at a meeting to be therefor called by the directors of the said Frederica Railroad Company within six months from the date of the passage hereof or it shall be void, which acceptance, in case this act shall be accepted, shall be certified under the hands of the president and secretary, and the seal of the said company, to the Secretary of State of this State, who shall make an entry thereof upon the Executive Register, and shall also file said certificate of acceptance in his office.

Passed at Dover, February 13, 1867.

CHAPTER 187.

WILMINGTON AND READING RAILROAD.

An Act in Relation to the Wilmington and Reading Railroad Company. Current vol. 46.

WHEREAS under and by virtue of the provisions of an act of the General Assembly of this State, passed at Dover, February 7, A. D. 1866, entitled, "A further supplement to an act entitled, 'An act to incorporate the Wilmington and Brandywine Railroad Company,' passed at Dover, March 5, 1861," the Delaware and Pennsylvania State Line Railroad Company has merged and consolidated its capital stock, franchises and property with the capital stock, franchises and property of a railroad company organized under the laws of the State of Pennsylvania; Preamble.

AND WHEREAS by an agreement made in pursuance of said act a new corporation has been created under the name of "The Wilmington and Reading Railroad Company," for the purpose of forming a continuous line of railroad to extend from a point at or near the City of Wilmington towards or into the coal and lime regions of the said State of Pennsylvania,

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring therein),

SECTION 1. That for the purpose of carrying out the objects of the said corporation, the said "The Wilmington and Reading Railroad Company" may, in addition to the powers heretofore granted, locate and construct said railroad as follows, that is to say: beginning at or near the Delaware river, within the limits of the City of Wilmington, whenever in the judgment of the directors said road may be deemed necessary in order to transact the business of the said company or to effect complete communication with the said Delaware river, and may locate and construct such lateral railroads, turnouts, switches, wharves or piers as occasion may require, and for these purposes the said corporation is hereby clothed and invested with all the rights, powers, franchises and privileges granted by or contained in the act authorizing said consolidation or merger. Location of road so as to effect communication with Delaware river authorized.

Passed at Dover, February 25, 1867.

CONCERNING RAILROADS.

CHAPTER 188.

SMYRNA JUNCTION.

An Act to give a Name to a Railroad Station in Kent County, Delaware.

Name changed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the railroad station near Smyrna, in Kent county, on the Delaware Railroad, called Smyrna Station, shall, from and after the passage of this act, be known and called by the name of "Smyrna Junction."

Passed at Dover, February 25, 1867.

CHAPTER 189.

DELAWARE RAILROAD.

10 vol. 342.

A Further Supplement to the act entitled, "An Act to incorporate the Delaware Railroad Company" (republished among the acts of 1849).

Construction of branch road authorized.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring therein,) That the Delaware Railroad Company shall have power to locate and construct a branch road, to commence at or near the village of Townsend, in New Castle county, and connect with the Kent County (Maryland) Railroad at the line between this State and Maryland, and for that purpose to enter upon any lands necessary for locating, laying out and making the said branch, or to procure sand, gravel, earth, or wood for such use, and to obtain title or right to the same in the manner provided by the charter of said company, republished in 10th Vol. page 342, &c., of the Laws of this State: *Provided, however,* That this grant shall be expressly subject to the contract heretofore entered into by the *State with the* New Castle and Frenchtown Turnpike and Rail-

Location.

Grant not to impair contract with F. T. & R. R. Co., unless

road Company, and shall not be operative if it in any wise impairs or affects such contract, unless the consent of said last-named company be first had and obtained, which consent shall be evidenced by an instrument to be executed by it under its corporate seal and the hand of its president, and attested by its secretary, in these or words of like import and effect, viz: consent of said company be obtained.

The New Castle and Frenchtown Turnpike and Railroad Company consent to the act passed at the January session of the Legislature of the State of Delaware A. D. 1867, *entitled, "A further supplement to the act entitled, 'An Act to incorporate the Delaware Railroad Company' (republished among the acts of* 1849)," *and will not treat the same as any breach or impairment on the part of said State of the contract made with said company through its charter or any supplement thereto.* Form of consent.

The said instrument shall be delivered to the Secretary of State, who shall carefully file the same among the papers belonging to his office. To be filed in Secretary's office.

SECTION 2. *And be it further enacted,* That the power to revoke this act is hereby reserved to the Legislature.

Passed at Dover, March 6, 1867.

CHAPTER 190.

SMYRNA AND DELAWARE BAY RAILROAD.

A Supplement to the act entitled, "An act to incorporate the Smyrna and Delaware Bay Railroad Company," passed at Dover, February 14, 1865. 12 vol. 540.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring), That the act to which this is a supplement be and the same is hereby amended by adding to the tenth section thereof the words following, to wit: "and may lay down the track of their railroad across the lands of any individual or corporation, and across the Delaware Railroad or any other railroad which the said company may deem it necessary to cross for the purpose of constructing their railroad on the line which may be selected by the said company, and may construct such sidelings and turnouts as they shall deem necessary." Addition to Sec. 10.

Passed at Dover, March 7, 1867.

CONCERNING RAILROADS.

CHAPTER 191.

NEWARK AND AVONDALE RAILROAD.

An Act to incorporate the Newark and Avondale Railroad Company.

Commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch thereof concurring), That William Dean, S. M. Curtis, John W. Evans, Edward D. Porter, Rathmell Wilson, J. F. Williamson, John Tweed, David Eastburn, William Reynolds, Joseph Hossinger, Abel Hopkins, Lewis Thompson, David Nevin and Aaron Baker (of Pa.,) or any five of them, be

and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they shall at such time or times as they may deem expedient, procure two or more books which shall be opened at such time or times, place or places as they shall think proper, in each of which they shall enter as follows: "We, whose names are hereunto subscribed do promise to pay to the president and directors of the Newark and Avondale Railroad Company the sum of fifty dollars for every share of stock set opposite our respective names, in such manner and proportions, and at such times as shall be determined by the president and directors of said company, in pursuance of an act of the General Assembly of this State, entitled, "An act to incorporate the Newark and Avondale Railroad Company." Witness our hands this —— day of ———, in the year of our Lord one thousand eight hundred and ——;" and after giving such notice as to them shall seem proper, they shall permit all persons of lawful age who shall offer to subscribe in the said books in their own names, or in the name of any other person or company who shall authorize the same, for any number of shares in the said stock.

To open books.

Entry to be made in books.

Who may subscribe.

SECTION 2. *And be it further enacted,* That when and as soon as five hundred shares shall be subscribed, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of the "Newark and Avondale Railroad Company," and by the said name the subscribers shall have perpetual succession, and be able to sue and be sued, implead and be impleaded in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy, to them and their successors, lands, tenements and hereditaments, goods, chattels and all estate, real, personal and mixed, of what kind or quality whatever, and the same from time to time to sell, mortgage, grant, alien, or dispose of, and to make dividends of such portions of the profits as they may deem proper, and also to make and have a common seal, and the same to alter and renew at pleasure, and also to ordain, establish and enforce such by-laws and regulations as shall be deemed necessary and convenient for the government of the said corporation, not being repugnant to the constitution and laws of this State and of the United States, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well being and ordering of the same: *Provided,* That nothing herein contained shall be considered as in any way giving to the said corporation any banking privileges whatsoever, or any other liberties, privileges or franchises but such as may be necessary or incident to the making and proper arrangement and management of the said railroad.

When 500 shares are subscribed subscribers incorporated

Name.

Corporate powers.

Proviso.

Banking powers prohibited.

CONCERNING RAILROADS.

Meeting of subscribers to organize company. Notice.

Where held.

Nine directors to be chosen. Duties of directors.

May make by-laws.

SECTION 3. *And be it further enacted,* That the commissioners aforesaid, as soon as conveniently may be, after five hundred shares shall be subscribed as aforesaid, shall give notice, in such manner as they shall deem proper, for at least twenty days, of the time for the said subscribers to meet in the town of Newark in order to organize the said company, and to choose, by a majority of votes present, to be given in person or by proxy, nine directors, a majority of whom shall be residents of this State, and the said directors shall conduct the business of the said company until the third Monday in January next ensuing their election, and until like officers shall be chosen, and may make such by-laws, rules and regulations as are not repugnant to the constitution and laws of this State or of the United States, and that may be necessary to the well governing of the affairs of the said company.

Annual meeting of stockholders when and where held.

Notice.

To choose officers for ensuing year.

Powers of stockholders at annual meetings.

Each share to entitle holder to one vote.

Exceptions.

Voting by proxy.

SECTION 4. *And be it further enacted,* That the stockholders shall meet on the third Monday in January in each and every year, after the number of shares of stock mentioned in the second section of this act shall have been subscribed, in the town of Newark, of which notice shall be given at least twenty days by the secretary, in at least two of the newspapers published in the City of Wilmington, and such other notice as the said directors may order, and choose by a majority of votes present, their officers for the ensuing year, as mentioned in the third section of this act, who shall continue in office for one year and until others are duly elected, and at such other times as they may be summoned by the directors in such manner and form as shall be prescribed by the by-laws, at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules and regulations as aforesaid, and to do and perform every other corporate act; and the number of votes to which each stockholder shall be entitled shall be according to the number of shares he shall hold, each share entitling him to one vote, but no share shall confer a right of suffrage which shall not have been held three calendar months prior to the day of election absolutely and *bona fide* in his own right, or in that of his wife, or for his or her sole use or benefit, or as executor, or administrator, trustee, or guardian, or in the right and for the use and benefit of some co-partnership, corporation, or society of which he or she may be a member, and not in trust for and to the use and benefit of any other person; and in all voting by proxy the attorney shall be legally constituted under the hand and seal of the party, and the authority properly authenticated, when, according to the laws of this State, such authentication is necessary.

CONCERNING RAILROADS.

SECTION 5. *And be it further enacted,* That the election of directors provided for in the preceding section shall be conducted in the following manner, that is to say: The directors for the time being shall appoint two of the stockholders, not being directors, to be judges of the said election and to conduct the same after having severally taken and subscribed an oath or affirmation before a judge or justice of the peace well and truly and according to law to conduct such election; and the said judges shall decide upon the qualification of voters, and when the election is closed shall count the votes and declare who has been elected, and if it shall at any time happen that an election of directors shall not be made the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of directors on the same day, or any day thereafter, by giving at least ten days notice (signed by the president or secretary) in the same manner and to the same extent as is prescribed for notices for annual meetings in Section 4 of this act of the time and place of holding such meeting for the election of directors; and the directors of the preceding year shall in that case continue to act and be invested with all the powers belonging to their office until another election shall take place. In case of the death, resignation, or removal from the State of any director, his place shall be filled by the board of directors until the next annual election: *Provided,* the removal of a director from this State shall not operate to vacate his place should there be a majority of directors still residing in this State.

Election of directors, how conducted.

Non-election of directors not to dissolve corporation.

Notice of the time and place for holding election.

Continuance in office.

Vacancies, how filled.

SECTION 6. *And be it further enacted,* That the said board of directors shall hold their meetings in the Town of Newark, or in such other place as they may determine, and when met five shall be a quorum. They shall elect a president, secretary and treasurer, and such other officers as may be necessary for the transaction of their business and for carrying on the business of the said corporation, and shall have power to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the moneys due on their respective shares, and generally to do all such other acts, matters and things as by this act and by the by-laws and regulations of the company they are authorized and required to do.

Meetings of directors, where held.

Quorum.

Election of President and other officers.

Powers of directors, to fix salaries.

To make calls.

SECTION 7. *And be it further enacted,* That the board of directors first chosen shall procure certificates or evidences of stock for all the shares of said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of said corporation, to each person or party entitled to receive the same according to the number of shares by him, her, or them respectively sub-

Certificates of stock.

To whom delivered.

scribed or held, which certificates or evidences of stock shall be transferable at the pleasure of the holder, in person or by attorney duly authorized, in the presence of the president or treasurer, in a suitable book or books, to be kept by the company for that purpose, (subject however to all payments due or to become due thereon,) and the assignee, or the party to whom the same shall have been so transfered, shall thereupon be a member of said corporation and have and enjoy all the immunities, privileges and franchises, and be subject to all the liabilities, conditions and penalties incident thereto in the same manner and to the same extent as the original subscriber would have been: *Provided,* That no certificate shall be transferred so long as the holder thereof is indebted to the company, unless the board of directors shall consent thereto: *And provided,* That no such transfer of stock shall have the effect of discharging any liabilities or penalties theretofore incurred by the owner thereof.

Certificates of stock transferable. How.

Assignee to be a member of the corporation.

Proviso.

Penalty for refusing to pay call within thirty days.

SECTION 8. *And be it further enacted,* That if, after thirty days' notice in the public papers and otherwise as aforesaid of the time and place appointed for the payment of any proportion or installment of the said capital stock in order to carry on the work, any stockholder shall neglect to pay such proportion or installment, at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his or her assignee shall, in addition to the installment so called for, pay at the rate of two per cent. per month for the delay of such payment; and if the same and the additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sum before paid in part and on account of such shares, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase the same for such price as can be obtained therefor; or in default of payment by any stockholder of any such installment as aforesaid, the president and directors may, at their option, cause suit to be brought before any justice of the peace, or in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid: *Provided,* That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, on whose share or shares any installment or arrearages may be due and payable more than thirty days previous to such election or meeting.

President and directors may bring suit for the amount of the calls and penalty.

No stockholder entitled to vote who has not paid his calls within thirty days.

Treasurer to bond, other officers to bond when required.

SECTION 9. *And be it further enacted,* That the president and directors of the said company shall demand and require of and from the said treasurer, and from such other officers and persons by them employed as they may deem necessary, bond in sufficient penalties and with such sureties as they shall, by their by-

laws, rules and regulations, require for the faithful performance of the several duties and trusts to them or any of them respectively committed.

SECTION 10. *And be it further enacted,* That dividends of so much of the profits of the company as shall appear advisable to the directors shall be declared at least twice in every year and paid to the stockholders on demand at any time after the expiration of ten days therefrom, but they shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock shall never be thereby impaired. If the said directors shall make any dividends which shall impair the capital stock of said company, the directors consenting thereto shall be liable, in their individual capacities, to said company for the amount of the stock so divided, and each director present when such dividend shall be made shall be adjudged as consenting thereto unless he forthwith enter his protest on the minutes of the board and give public notice to the stockholders of the declaring of such dividend.

Dividends.

Not to exceed the net profits of the company.

Individual liability of directors.

Directors present deemed to consent.

SECTION 11. *And be it further enacted,* That at each annual meeting of the stockholders the directors of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for the preceding year, and that special meetings of the stockholders may be called by order of the directors, or by the stockholders holding one-fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying, moreover, the object of the meeting. But no business shall be transacted at such special meetings, unless stockholders holding a majority in value of the stock shall attend in person or be represented by proxy.

Statement of the affairs of company.

Special meetings, how called.

Special business only to be transacted unless, &c.

SECTION 12. *And be it further enacted,* That the said company be and they are hereby authorized to locate and construct a railroad, beginning at some point at or near the junction of the Delaware Railroad with the New Castle and Frenchtown Railroad (known as the Delaware Junction), and extending in the direction of Avondale, in the State of Pennsylvania, crossing the Philadelphia, Wilmington and Baltimore Railroad at or near Newark, and up the valley of the White Clay Creek to the line of this State, with such lateral branches or railroads as occasion may require, and for that purpose to enter upon any lands necessary for locating, laying out or making the same, or to procure sand, gravel, earth or wood for such use, and to obtain title and right to the same as hereinafter provided: *Provided,* That the said route or line of railroad, or any of its lateral branches hereby authorized to be located and constructed, shall not be so located

Company authorized to construct railroad.

Where.

May enter upon any lands necessary therefor

May obtain title to same.

Shall not pass through any burying ground.

and constructed as to pass through any burying-ground or place of public worship, nor any dwelling-house, without the consent of the owner or owners thereof: *Provided,* That before the company shall enter upon or take possession of any lands or materials required for the location or construction of the said railroad, they shall make compensation to the owner or owners thereof, or shall tender adequate security therefor.

Lands not to be taken until compensation be made to owner.

Remedy of company against the owners of lands refusing to permit entry.

SECTION 13. *And be it further enacted,* That whenever it shall be necessary for the president and directors of the said company, or their agents, to enter in and upon, and occupy, for the purpose of making the said railroad, any lands the owners of which refuse to permit such entry and occupation, then it shall be lawful for the Superior Court of New Castle county, if in term time, or any judge of said court in vacation, on application of either party, and at the cost and charge of said company, to appoint five disinterested men of said county, who shall go upon said lands and assess the damages of such owner or owners fairly and impartially, taking into consideration all the benefits to be derived from or in consequence of the said railroad to the said owner or owners, and the said commissioners shall certify their finding and award to both parties; whereupon the said company, on paying the damages so assessed, shall become entitled to have, use and enjoy the said lands for the purposes by them required forever. And in case any owner or owners of any lands necessary for the purposes of said company shall be a minor or non-resident, or for any cause incapable of receiving, or unwilling or neglecting to receive said damages, or to call on the company for the same, the said company may deposit the amount of the said damages to the credit of such owner or owners in the National Bank of Newark, or the branch of the Farmers' Bank of the State of Delaware, at New Castle, subject to his, her, or their order, whereupon the said company shall be entitled to have, use and enjoy the said lands and premises required for the purposes of said company for or on account of which damages shall have been so assessed. The expenses of the assessment of said damages shall always be paid by the said company.

Commissioners to certify award to both parties.

Owners under disability or refusing to accept damages, company may deposit them in bank.

Company to have title.

Expenses of assessing damages.

Crossings over public roads.

SECTION 14. *And be it further enacted,* That the said railroad shall be so constructed by the said company as not to impede or obstruct the free use or passage of any public road or roads which may cross or enter at the same, being now laid out or hereafter to be laid out, and in all places where the said railroad may cross, or in any way interfere with any public road, it shall be the duty of the said company to make, or cause to be made, a good and sufficient causeway or causeways to enable all persons *passing* or traveling such public road to cross or pass over or

under the said railroad, which causeway or causeways shall be made by the said company and maintained by them; and that for the accommodation of all persons owning or possessing land through which the said railroad may pass, it shall be the duty of the said company to make, or cause to be made, a good and sufficient causeway or causeways wherever the same may be necessary to enable the occupant or occupants of said lands to cross or pass over the same with wagons, carts, or implements of husbandry, as occasion may require: *Provided,* That the said company shall in no case be required to make, or cause to be made, more than one such causeway through each plantation or tract of land for the accommodation of any one person owning or possessing land through which the said railroad may pass; and where any public road shall cross such railroad the person owning or possessing land through which the said road may pass shall not be entitled to make such requisition on said company. And if the said company shall neglect or refuse to make such causeway or causeways on request, or when made to keep the same in good repair, then said company shall be liable to pay any person aggrieved thereby all damages sustained by such person in consequence of such neglect or refusal, to be sued for and recovered before any justice of the peace or any court having cognizance thereof; and the service of process upon any officer or agent of said company shall be as good and available in law as if served upon the president thereof.

Other crossings.

One crossing only to one tract of land.

Penalty for neglect to make such crossings.

How recovered.

Service of process.

SECTION 15. *And be it further enacted,* That no suit or action shall be brought or prosecuted by any person or persons for any penalties incurred under this act unless suit or action shall have been commenced within six months next after the offence shall have been committed or the cause of action shall have accrued, and the defendant or defendants in such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance of and by authority of this act.

Suit against company for penalties under this act.

Company may plead the general issue.

SECTION 16. *And be it further enacted,* That if any person or persons shall wilfully or knowingly destroy, injure, or break the said railroad or any part thereof, or any work, edifice, or device, or any part thereof, to be erected by the said company in pursuance of this act, he, she or they shall forfeit and pay to the said company three times the actual damage so sustained, to be sued for and recovered with costs of suit before any justice of the peace or in any court having cognizance thereof, by action of debt in the name and for the use of the said company.

Penalty for injury to works of the company

How recovered.

SECTION 17. *And be it further enacted,* That if at any time a company incorporated by the Legislature of the State of Pennsylvania, for the purpose of constructing a railroad from Parkesburg,

Company may unite with other companies to

be chartered in Pennsylvania.

Coatesville, or Avondale, in that State, (or any other railroad company in that State), should wish to unite with the railroad contemplated by this act, and it shall be desired by the president and directors of the two companies respectively to unite the capital stock of the said companies, then and in such case the president and directors and company of the Newark and Avondale Railroad are hereby authorized and empowered to form such union of the capital stock of the said companies so that it shall constitute one company, and be entitled to all the rights, privileges and immunities conferred by their charters respectively.

When united to form one company.

Fencing.

SECTION 18. *And be it further enacted,* That the said company shall erect and maintain, along the whole line of said railroad, on both sides thereof, in this State, before the said railroad shall go into operation, a good and legal fence whenever the same may be necessary: *Provided,* That the said company shall have the right to make special contracts for erecting and maintaining fences with any persons through whose lands said railroad shall pass.

Special contracts concerning the same.

Company may increase capital stock

SECTION 19. *And be it further enacted,* That the said company shall have power to increase its capital stock by additional subscriptions thereto to an amount sufficient to effectuate the objects of this act and construct the railroad contemplated by it, and from time to time to borrow money for the uses and purposes of the corporation, and to execute mortgages on all their estate, real and personal, and to issue bonds to secure the payment of the same: *Provided,* That the amount so borrowed shall not exceed in the aggregate the sum of two hundred thousand dollars.

May borrow money not exceeding $200,000.

Passed at Dover, March 11, 1867.

CHAPTER 192.

NEW CASTLE AND FRENCHTOWN TURNPIKE AND RAILROAD.

An Act in relation to "The New Castle and Frenchtown Turnpike and Railroad Company."

Branch road authorized.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring herein,) That *the said* company shall have power to construct and make a

branch of its railroad, beginning at or near the junction of the road of the Delaware Railroad Company with its road and extending from thence to the line dividing this State from the State of Maryland, so as to form a connection with any railroad to be built from Elkton, in the latter State, or thereabouts, to the said State line, and for that purpose the said "The New Castle and Frenchtown Turnpike and Railroad Company" shall have all powers in relation to condemnation of land or otherwise that are granted by the charter of said company in relation to making the road or roads by it authorized to be constructed or built. Location.

SECTION 2. *And be it further enacted,* That nothing herein contained shall be held or taken to impair or in any wise affect the contract existing between this State and said company by the act entitled, "An Act to provide for the payment of certain sums of money to the State by the New Castle and Frenchtown Turnpike and Railroad Company, and for other purposes," passed at Dover, February 7, 1852 (10th vol. Del. Laws, page 652, &c.) Contract existing between the State and said company not to be impaired.

SECTION 3. *And be it further enacted,* That the power to revoke this act is hereby reserved to the Legislature.

Passed at Dover, March 21, 1867.

CHAPTER 193.

CHESAPEAKE AND DELAWARE CANAL COMPANY.

3 Volume 170. 9 Volume 26.

An Act to amend an act entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the Chesapeake Bay and Bay or River Delaware, or the waters thereof," passed at Dover, January 29th, 1801, *and also to amend a Supplement thereto, passed at Dover, June 15th,* 1836. 3 Vol. 170. 9 Vol. 26.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch concurring,) That so much of the first sec-

Part of Sec. 1 of original act repealed.

tion of the said original act as makes or fixes the value of the shares of the capital stock of the Chesapeake and Delaware Canal Company at two hundred dollars, be and the same is hereby repealed.

Four shares authorized to be issued to the stockholders in lieu of each share now held.

SECTION 2. *And be it enacted,* That the Chesapeake and Delaware Canal Company shall have full power and authority to issue to the stockholders of said company four shares of the capital stock of the said company at the par value of fifty dollars per share, in lieu of each share of said stock now held by the said stockholders upon the surrender of the certificate thereof.

Additional annual meeting.

SECTION 3. *And be it enacted,* That beside, and in addition to the general meeting of proprietors to be held on the first Monday of June, in every year, as provided for in the seventh section of said original act, there shall be a general meeting of the proprietors on the first Monday of December in every year, at the office of the said company, at which meeting an equal dividend of all the net profits arising from tolls may be ordered and made to and among all the proprietors of the said company, if, upon examination of the accounts and general affairs of the said company, which it is hereby made the duty of the president and directors to present at said meetings, it shall be deemed right and expedient by the proprietors so to order and make such dividend.

When held.

The object of

What number of shares to constitute general meetings.

SECTION 4. *And be it enacted,* That the presence of proprietors having two thousand shares, at the least, shall be necessary to constitute all general meetings.

Sec. 11 of supplement passed June 15, 1836, repealed.

SECTION 5. *And be it enacted,* That the eleventh section of the aforesaid supplement, passed at Dover, June 15th, 1836, be and the same is hereby repealed, and that the next following section, number six of this present act, be and the same is hereby substituted therefor.

Holders of certificates of debt to vote.

SECTION 6. *And be it enacted,* That in all elections hereafter to be held for president and directors of the said Chesapeake and Delaware Canal Company, and at all meetings of stockholders to be called upon the business of the company, the holders of any certificates of debt, provided for in said supplement, and of any to be created by virtue of future loans in said supplement provided for, shall be entitled to participate and to vote in person or by proxy, and in voting shall have the same rights and privileges as the stockholders, and in estimating the number of votes which any holder of a certificate shall be entitled to give, every fifty dollars of the amount held by such person shall be taken and estimated as equal to one share of the stock: *Provided always,* That no person shall be entitled to vote upon any certificate which such person shall not have held at least two months *before the election,* or the meeting of business at which his vote

How many votes.

Proviso.

may be offered, nor shall any vote by proxy be received unless such proxy shall have been created within ninety days next preceding that on which such vote shall be tendered.

SECTION 7. *And be it enacted,* That this act shall take effect from its acceptance by the stockholders of the Chesapeake and Delaware Canal Company, at the next general meeting of stockholders of the company, which acceptance shall be certified to the Governor of this State under the corporate seal of the company. Acceptance of act.

Passed at Dover, January 31, 1867.

CHAPTER 194.

GREEN BRANCH DITCH COMPANY.

12 Vol. 285, 414; Current Vol. 78.
SEC. 1. Original acts revived.
SEC. 2. Acts amended. How.

An Act to revive and amend the act entitled, "An Act to incorporate the Green Branch Ditch Company," passed at Dover, February 18, 1863, *as amended by the acts passed at Dover respectively, January* 28, 1864, *and January* 30, 1866. 12 Vol. 285, 414. Current Vol. 78.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring herein,) That the act entitled, "An act to incorporate the Green Branch Ditch Company," passed at Dover, February 18, 1863, as amended by the several acts passed at Dover respectively, January 28, 1864, and January 30, 1866, be and the same is hereby revived; and Original acts revived.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the names of John M. Voshell and Tilghman Foxwell, in the first and second lines of Section 2 of said act, be stricken out, and the names of Ayers H. Stockley and Enoch Spruance be inserted in lieu thereof; and that the figure 6, in the second line of Section 5 of the said act, be stricken out, and the figure 8 be inserted in lieu thereof. Act amended—how.

Passed at Dover, January 31, 1867.

DITCH COMPANIES.

CHAPTER 195.

POKOMOKE RIVER IMPROVEMENT COMPANY.

An Act to Incorporate the Pokomoke River Improvement Company.

All the companies for the reclamation of low lands on Pokomoke River consolidated.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch of the Legislature concurring herein,) That all the different improvement companies for the reclamation of the low lands lying upon the Pokomoke river, and the different streams or branches tributary thereto, be and the same hereby are consolidated and made one great improvement company, and the owners of the lands embraced within their respective limits and

also the owners of all lands or low grounds benefited or to be benefited by the drainage now made or hereafter to be made by cleaning out the said river and the said streams or branches thereof, or the ditches cut or to be cut for the purpose of relieving the low lands bordering upon said river and formed by alluvial deposit near the same, be and they are hereby incorporated and made a body politic and corporate in law and in fact, with all the usual and necessary powers of like improvement companies, and subject likewise to the same obligations and duties as such companies are, by the name and style of "The Pokomoke River Improvement Company," and as such shall have succession for the period of twenty years from the passage hereof, except the owners of low grounds lying west of the Pokomoke river run and the upper Pokomoke, beginning at George T. West's upper line, which empties into said river, shall not be embraced within the limits or operations of said company except for the single purpose of enabling the said company to collect from the said owners of said land respectively such proportion of the expenses of said company in and about the ditching of said river below according to the report of the commissioners hereinafter mentioned.

Incorporation.

Name.

Certain owners of low lands not embraced within the limits of said comp'y.

SECTION 2. *And be it further enacted,* That the object and purpose of the creation of said company is the more thorough draining and reclaiming the low grounds lying upon the said river, and to be rendered more valuable by promoting the more rapid and unobstructed flowage of water down the same by ditches and drains into and down the said river.

Purposes of said comp'y.

SECTION 3. *And be it further enacted,* That for the purpose of the more complete relief of the low grounds of the said river from the water which stands upon the same for want of drainage, William P. Jones, Elisha W. Cannon and Joseph Ellis be and they are hereby appointed commissioners, whose duty it shall be, having first been sworn or affirmed before a justice of the peace to perform the duties devolved upon them by this act, to go upon the low grounds aforesaid and lay out upon the same such ditches or drains as they may deem necessary to relieve said grounds from water and fit them for profitable cultivation by their owners. They shall take to their assistance a surveyor and chain-carriers, and shall survey the line of the said ditches or drains, and make a plot or plots of the same, showing the courses and distances thereof, and make a general description or delineation of the said low lands bordering upon the said contemplated ditches or drains and to be improved thereby, giving the names of the owners thereof and the estimated quantity of acres held by each; and shall estimate the cost of opening and making the

Commissioners appointed.

Oath.

To lay out ditches.

Employ surveyor and chain carriers.

Survey line of ditches.

Plots.

DITCH COMPANIES.

Assessment

said ditches or drains, and shall make a proper assessment of said cost, to be borne by such owners respectively, having reference to the quality of the land and the benefit per acre to be derived thereby to such owners, and if no benefit will be received by any owner, but an injury, they shall also estimate and determine the extent of such injury and the damage that will accrue to such owner by reason of such injury, which damage shall be deposited in the Farmers' Bank at Georgetown to the credit of such owner, if he will not or cannot receive it before the said company shall occupy his lands and take the same for the improvement to be made by said company: *Provided, however,* That where any prong has already been laid out and made under prior proceedings of any of the said companies consolidated by this act, and also where any new prong or prongs shall be laid out by the said commissioners under the authority given by this act, the said commissioners shall determine and certify, as part of their proceedings, what portion of the taxes to be hereafter laid by the said consolidated company shall be applied towards the cleansing and scouring out the old or main ditch of the company hereby created, and what in the making and thereafter keeping in repair the said prong or prongs, and such certificate shall be conclusive. The said commissioners shall also make out under their hands, or the hands of a majority of them, five lists, containing the names of the owners of the low grounds included in the said company's operations, the quantity of acres owned by each, the valuation of the same and the cost of opening and making the ditches or drains for the improvement of the same, and they shall cause one of those lists to be hung up at each of the five most public places in the neighborhood of the said low grounds, with a notice thereon that they will sit as a board of appeal at Gumboro', in Broad Creek hundred, at ten o'clock, on some day not less than ten days from the day of giving said notice, to hear and determine appeals from said estimate of quantity, valuation, and cost, and they shall sit at that time and place and hear all appeals that may be then made from their action, and determine upon the same, which determination, when made, shall be final and conclusive upon all parties. When the said appeals shall have been heard and determined the said commissioners shall give notice of that fact in writing, under their hands, or the hands of a majority of them, in like manner as is provided in this section with reference to the appeal notice, and shall therein name and appoint a day when the said company shall meet to commence operations under this act by the election of their officers and the transaction of the other business thereof. And the said company shall, on that day, *hich shall* be the day of their first meeting, proceed with and

Damages to owners.

Where deposited.

Proviso.

Certificate of commissioners as to proportion of taxes to be applied to cleansing main ditch and to making and keeping in repair prong or prongs.

Conclusive.

Lists of owners of land.

What to contain.

Where posted.

Board of appeal.

Where to sit.

When.

For what purpose.

Conclusive.

Notice of determination of appeal, and of day appointed to commence operations.

DITCH COMPANIES.

perform the business provided to be transacted at its annual meetings. The fees of the said commissioners shall be three dollars each for every day's actual service performed by them under this act.

Commissioners fees.

SECTION 4. *And be it further enacted,* That when the duties on the part of said commissioners under this act have been fully performed, the said commissioners shall make a record or return of their proceedings under their hands, or the hands of a majority of them, containing also the plot hereinbefore provided for, to the Recorder of Sussex county within one month from the time when their labors are completed, which recorder shall record the same in his office and then deliver the original to the aforesaid company. The said original, and also the said record, or a duly certified copy thereof, shall be evidence. The recorder shall be paid by the said company for his services in recording said return and plot the usual fees for similar service. When the said return is so made and completed and delivered and recorded as aforesaid, the lands shown thereby shall be deemed and taken to be a part of the territory under the control of the said company's operations, and the estimated value of the benefit per acre to be received by the several owners thereof shall be the basis upon which thereafter the taxes to be laid by said company shall be assessed and levied and collected out of said owners, not including the cost of opening and making the ditches or drains provided for by the third section, which cost shall be collected when the expense is incurred, without any action by the said company, the determination of the said commissioners being and shall be held to be equivalent to an assessment of taxes by said company; and the treasurer shall collect the said cost and expense through the same powers as is provided with reference to the taxes laid by said company.

Return of commissioners to Recorder of Sussex county.

When.

To be recorded.

Record to be evidence.

Recorder, how paid.

When return made, &c., land deemed to be under control of company.

Upon what basis taxes to be assessed.

How cost of opening ditches to be paid.

Powers of treasurer to collect cost.

SECTION 5. *And be it further enacted,* That whenever hereafter the owners of any low grounds bordering upon said river, and which lands have not had ditches or drains laid out through them by the aforesaid commissioners, shall wish to have such lands brought within the said company's works and ditched, they may, at their own expense, apply to the judge of the county by a petition for that purpose, and upon such application the said judge shall appoint three impartial freeholders of the county, not owning or being in any wise interested in lands bordering upon said river, who, qualifying themselves, and acting in all respects as provided in the third section hereof, may, if they deem proper, lay out other ditches and drains to form part of said company's works, and make return thereof in like manner as before provided with reference to the commissioners named in said section,

Owners of land wishing to connect with company's works.

Petition to judge of county.

Appointm'nt of freeholders.

To lay out ditches.

Return.

Effects of proceedings of freeholders.

which doings and proceedings, when performed and completed as aforesaid, including the recording thereof by the recorder aforesaid, shall have the same force and effect as if the services rendered by force of this section had been performed and done under the provisions of the aforesaid third and the fourth sections hereof; and all the provisions of said sections shall apply to the proceedings had under this section, and when done, shall have the same force and effect as if done under said section: *Provided however,* That all expenses attending any proceedings by virtue of this section shall be borne and paid by the parties for whose benefit the same are incurred, and not by said company.

Expenses, how paid.

The costs of ditches, &c., already cut, to be estimated as if no such ditches, &c., existed.

SECTION 6. *And be it further enacted,* That when in the course of the performance of the duties imposed on the commissioners appointed by the aforesaid third section hereof, a ditch or drain shall be laid out at a place where any owners have already cut or opened a ditch or drain, the cost of the whole ditch or drain surveyed and plotted shall be estimated as if no such ditch or drain so cut or opened existed; but the said company shall make an allowance to the owner or owners of such work, and the same shall be deducted from the taxes payable by him or them until the said allowance is fully exhausted and paid thereby.

Allowance to be made to owners for work on same.

Commissioners empowered to go into Maryland to cut ditches, &c.

SECTION 7. *And be it further enacted,* That the said company, in order the more thoroughly to drain and reclaim the low grounds within their limits, shall have the power, and it shall be their duty, with the consent of the owners of the lands lying therein to be entered upon and used, to go into the State of Maryland and enter upon the lands in or along said river as low down as Evans' Crossing, and cut all such ditches and drains in said lands as shall be necessary to promote a thorough flowage of the water down said river free from the obstructions that now impede the course of the same, and defray the expense thereof out of the common fund of said company. And further, the first work to be done by said company shall be, if consent as aforesaid be given, upon the said lands in Maryland, and afterwards upon the lands in this State nearest the same, and so always upwards and not downwards, so that there may be free and unobstructed flowage as the works progress, it being the true intent and meaning of this act, and this General Assembly does hereby enact, that the operations of said company shall commence and be undertaken first in Maryland (if consent be given as aforesaid), and when the boundary line between that State and this has been reached, then in this State at said line, and afterwards continuously upwards until the whole work be completed. And further, when any prong of the main ditch of the company is

Expenses, how defrayed.

Where work of company to be commenced.

reached in such progression of the work of drainage, it shall be lawful to commence work and continue to prosecute the same upon said prong until all necessary labor thereon is completed, the same order with reference to said work being observed upon a prong as upon the main ditch, that is, the work to commence at the lower end, and progress upwards until completion. And it is also hereby further enacted and provided that if actual operations by way of drainage be not begun under this act within two years from the date hereof, this act shall become inoperative and void, and all acts repealed hereby shall be thereupon revived and put in full force and effect.

Work upon prongs.

If work not commenced in two years act to be void.

SECTION 8. *And be it further enacted,* That the business of said company in cutting and making the new ditches and drains hereinbefore provided for, and in keeping the same well secured and cleaned, and also in the repair and cleansing of the ditches and drains hereby made part of the works of said company by this act of consolidation, shall be transacted by a board of managers, members of said company, to be elected by the owners or members at their annual meetings, the day of holding which shall be the first Saturday of June in each year, who shall have, for the purpose of enabling them fully to perform their duties, all the usual and accustomed powers vested in such officers or necessary to the discharge of their official functions. They shall keep, and exhibit to the said company, or to any member thereof, at all times when required, a faithful account of all their acts and proceedings, and a statement of all the expenses by them incurred, and of the orders given by them on the treasurer of the company in payment of such expenses; and in order to ascertain and fix their number there shall be two of such managers for the main ditch of said company, and one for each of the lateral or cross ditches or prongs, each acting within his sphere independently of the others.

Board of Managers, how elected. When.

Powers.

They shall exhibit account of acts &c., to company.

Number of managers.

SECTION 9. *And be it further enacted,* That the said company shall, at each annual meeting, elect one of their members to be their treasurer, who, before he enters upon the discharge of his duties, shall give bond, with surety to be approved by said company or a committee of its members appointed at said meeting for that purpose, in the penal sum of ten thousand dollars, with condition for the performance of all his duties as such treasurer with fidelity. His duties shall be the safe keeping and disbursement, upon the orders of the aforesaid managers, of all orders drawn by them for payment of expenses incurred in and about the business of said company, including their own *per diem,* which shall be two dollars for every day of actual service rendered by them, the keeping of proper accounts of all receipts

Treasurer, when elected.

Bond.

Amount of

Duties.

Pay of commissioners.

and disbursements, and the payment over to his successor in office of all moneys in his hands when his term of service expires. He shall also pay all orders or drafts drawn by said company upon him, such payment and also all payments to be made by him to be of funds of the said company in his hands or to come into his hands as such treasurer, after deducting his own commissions. which shall be five per cent. on all moneys which shall come into his hands: *Provided, however,* That only one set of commissions shall be allowed upon the same money: *Provided,* That in the collection of taxes by said treasurer he shall collect first from those whose lands are immediately affected by the operations of said company; that is: he shall collect from those below before he collects from those above within the bounds of said company. The said treasurer shall also *ex-officio* be the collector of the taxes laid by the said company, and for the purpose of such collection he shall have all the powers which by the laws of this State are vested in the collectors of county rates and levies. He shall settle with the company at the annual meeting next after his appointment, and also at all times when required by them shall exhibit an account of his receipts and disbursements and the vouchers for the latter. The duties hereby imposed shall be within the condition of his official bond as treasurer of said company.

Commissions of treasurer.

From whom first to collect taxes.

Treasurer ex-officio collector. Power.

When to settle. Shall exhibit account of receipts, &c.

Duties within condition of official bond.

SECTION 10. *And be it further enacted,* That the said company shall, at each annual meeting, determine what sum of money shall be raised to meet the current expenses of said company for the year thence next ensuing, and shall then determine from the present valuation of the lands lying upon the main ditch and upon any ditch (now maintained by a company) which leads into the same, and also from the valuation of lands to be made under the provisions of this act, what proportion of said expenses shall be borne and paid by each and every owner of lands within said company's limits, and shall certify and make known such their determination, in the usual mode employed by other ditch companies, to the aforesaid treasurer, with a warrant thereto annexed under the hand of the chairman of said meeting, and attested by the secretary, for the collection of such expenses, which certificate shall be final and conclusive upon all parties.

Sum to be raised to meet current expenses, when determined.

Proportion of each owner of land, how determined.

Certificate to treasurer.

Warrant for collection.

Certificate conclusive.

SECTION 11. *And be it further enacted,* That at all meetings of said company each person assessed for taxes shall be entitled to one vote for every dollar of taxes for which he has been assessed, and he may deliver that vote in person or by proxy duly constituted under his hand and seal.

Persons assessed entitled to one vote for each dollar of tax. Proxy.

SECTION 12. *And be it further enacted,* That all expenses attending the drawing and passage of this act and putting the

Expenses of this act. How paid.

same in force, shall be borne and paid by the said company out of any funds in its possession.

SECTION 13. *And be it further enacted,* That this act shall be deemed and taken to be a public act and shall be printed as such among the public statutes. Public act.

SECTION 14. *And be it further enacted,* That all acts and parts of acts heretofore passed with reference to any of the lands embraced or to be embraced within the limits of the company hereby created be and the same hereby are repealed, made null and void. Certain acts repealed.

SECTION 15. *And be it further enacted,* That in case a vacancy should occur in the aforesaid body of commissioners by death, removal from the county, or inability to serve, the Judge of the Superior Court resident in Sussex county shall have power to fill such vacancy. Vacancies, how filled.

SECTION 16. *And be it further enacted,* That the power to revoke this act is hereby reserved to the Legislature. Revocation.

Passed at Dover, March 22, 1867.

CHAPTER 196.

DUCK CREEK IMPROVEMENT COMPANY.

11 Vol. 672; 12 Vol. 74.
SEC. 1. Future Elections. Voters.
SEC. 2. Sec. 1, Chap. 592, Vol. 11, amended. How.

A Supplement to the act entitled, "An Act to incorporate the Duck Creek Improvement Company." 11 Vol. 672. 12 Vol. 74.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch concurring), That in all future elections for Managers and Treasurer, and other meetings of marsh owners for the purpose of laying additional tax, as provided for in the act to which this is a supplement, it shall and may be lawful for each person owning five acres of marsh, or low ground, to have one vote, and for every additional ten acres owned by such person, which shall have been assessed, he or she may be entitled to an additional vote therefor. Future elections. Voters.

DITCH COMPANIES.

Sec. 1, Chap. 592, Vol. 11 amended.

SECTION 2. *And be it further enacted,* That Section 1 of Chapter 592, Vol. 11 of Laws of Delaware, entitled "An Act to incorporate the Duck Creek Improvement Company," be and the same is hereby amended by striking out the word "first," in 8th line of said section, and inserting in lieu thereof the word "second;" and further by striking out the words "at the tavern-house on Long Point," occurring in line 10 of said section, and the following be and the same is hereby inserted in lieu thereof: "at Smyrna Hotel, owned by Tilghman Foxwell."

How.

Passed at Dover, February 20, 1867.

CHAPTER 197.

JAMISON'S BRANCH COMPANY.

9 Vol. 352; 12 Vol. 307.
SEC. 1. New assessment authorized.
SEC. 2. New assessment to be the valuation for the assessment of taxes for ten years. Re-establishment of original act.

9 Vol. 352. 12 Vol. 307.

An Act in Relation to "The Jamison's Branch Company."

New assessment authorized.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That a new assessment or appraisement of the lands enclosed within the scope of the operations, or benefited by the works of said company, is hereby ordered to be made, and Henry Pratt, William Virden and William Slaughter, are hereby appointed to make and return the same, as provided with reference to another appraisement ordered by the 2d Section of Chap. 288, of the Laws of this State, (12 Vol., page 308.)

New assessment to be the valuation for the assessment of taxes for ten years.

Re-establishment of original act.

SECTION 2. *And be it further enacted,* That the said new assessment or appraisement shall be the valuation upon which the taxes with which the aforesaid lands shall be chargeable shall be assessed and levied for the space of ten years thereafter, and generally all and every the provisions of the original charter of said company, and of any and all supplements thereof, or additions thereto, except as the same are altered by this act, be and the same are hereby re-enacted, re-established and declared to be in full force, and shall have full operation and effect for the space *of twenty* years from the date of the passage hereof.

GENERAL CORPORATIONS.

SECTION 3. This act is passed with the concurrence of two-thirds of each branch of the Legislature.

Passed at Dover, March 14, 1867.

CHAPTER 198.

WILMINGTON COAL GAS COMPANY.

A Further Supplement to the act entitled, "An Act to Incorporate the Wilmington Coal Gas Company." 10 Vol. 575.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch concurring,) That the act entitled, "An Act to incorporate the Wilmington Coal Gas Company," passed the fourth day of March in the year of our Lord one thousand eight hundred and fifty-one, and the supplements thereto, passed at subsequent sessions of the General Assembly, or so much of them as is now in force and not altered, changed, or amended by this act, shall continue and be in full force, and the same is hereby extended and continued for the term of twenty years from the passage of this act, and the said corporation created or established by the said recited act and the supplements thereto, or any of them, with all the rights, powers, privileges, franchises and immunities which are now vested in the said corporation by any law of this State, are hereby continued, extended, and shall be held in full force and operation for the term of twenty years from and after the passage of this act, except so far as said recited act and the supplements thereto are changed, altered, or amended by this act. Original act, with supplements, revived.

SECTION 2. *Be it further enacted,* That the capital stock of the said Wilmington Coal Gas Company may be increased to a sum not exceeding four hundred thousand dollars, and the directors of said company shall have power to issue the additional stock in shares of the same par value as the shares already in existence, and to dispose of the same in such manner and at such times as Increase of capital stock

in the discretion of said directors it may be necessary to enlarge the operations of said company to meet the public wants.

Sec. 10 repealed.

SECTION 3. *And be it further enacted,* That Section 10 of the act to which this is a further supplement be and the same is hereby repealed.

Price of gas, how regulated.

SECTION 4. *And be it further enacted,* That the prices of gas shall be so regulated as that the dividends upon the capital stock of said company shall never exceed twelve per cent. per annum.

Publication ordered.

SECTION 5. *And be it further enacted,* That this act shall be published in the laws of this State and not be excluded therefrom by virtue of any provision in the act entitled, "An Act concerning the publication of the Laws," passed at Dover, February 17, 1866: *Provided,* The said company shall first pay to the Secretary of State the special tax provided for by Section 3 of Chapter 1, Part 1, Vol. XIII of the Laws of the State of Delaware.

Passed at Dover, January 30, 1867.

CHAPTER 199.

DELAWARE GAS LIGHT IMPROVEMENT COMPANY.

An Act to Incorporate the Delaware Gas Light Improvement Company.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,) as follows, to wit:

Incorporation.

SECTION 1. That James Bradford, William G. Gibbons, E. Q. Sewall, George G. Lobdell, William G. Mendinhall, James G. Knowles, Oborn Levis, Casper Kendall, Isaac G. Lloyd, James

GENERAL CORPORATIONS.

Lawless, Job H. Jackson, Thomas W. Bowers, David Lemon, Charles F. Rudolph, William H. Billany, John H. Adams, Peter N. Brennan, Henry Pretzschner, Henry S. McComb and Charles Baird, together with such other persons as may become associated with them for the object hereinafter mentioned, and their successors, be and they are hereby declared to be a body corporate under the name and style of "The Delaware Gas Light Improvement Company," and by that name shall have succession, with power to sue and be sued in all courts of law and equity, to purchase, take, hold, grant, sell, mortgage, alien and dispose of lands, tenements, hereditaments, goods, chattels and effects, to have and use a common seal, to ordain by-laws for its government and generally to exercise and enjoy all the powers, privileges and franchises incident to a corporation except banking powers.

Name.

Powers.

SECTION 2. The object of this corporation shall be to manufacture and sell, or otherwise use or dispose of, for the benefit of the corporation, any improvement or improvements in the use of gas, and particularly a certain improvement known as the "Gas Light Multiplier," patented under the Laws of the United States by re-issued letters patent, dated the sixteenth day of October, A. D. 1866, and the said corporation shall have power to purchase, hold, exercise, sell and assign, as well any other patent right, or patent rights for improvements for the like purpose as the one before specified, and to manufacture, sell, use, or dispose of such improvements.

Purposes of corporation.

SECTION 3. The capital stock of said company shall be twenty-five thousand dollars, to be divided into one thousand shares of twenty-five dollars each: *Provided*, That the said company may, from time to time, by a vote of the stockholders at a meeting called for that purpose, increase the capital stock to any amount so that it shall not at any time exceed fifty thousand dollars. Shares of capital stock shall be personal estate, and the same shall be certified, held and assigned according to the provisions of the by-laws.

Capital stock $25,000.

Right to increase.

Not exceed $50,000.

Shares.

SECTION 4. Subscriptions to the capital stock shall be paid in such manner, and in such installments, and at such times as the directors shall appoint; and the same shall be liable to be forfeited for non-payment as may be provided in the by-laws.

Subscriptions to capital stock.

SECTION 5. There shall be an annual meeting of stockholders on the second Monday of January in every year. Special meetings of stockholders may be called by the President, in manner to be provided by the by-laws, and he shall call such meetings at the request of any two directors. At meetings of stockholders all questions shall be decided by a majority of votes cast in person or by proxy; each share of stock being entitled to one vote.

Annual meetings.

Special meetings.

Proceedings, how conducted.

GENERAL CORPORATIONS.

Directors to manage business.

SECTION 6. The affairs and business of the corporation shall be managed by a board of seven directors, (five of whom shall be a quorum,) who shall be stockholders, to be elected by the stockholders at each annual meeting. They shall be chosen by ballot and by a majority of the votes cast according to the provisions of the fifth section, and shall continue in office until the next annual meeting, or until successors are duly chosen. Any vacancy in the board shall be supplied by the other directors. A failure to elect annually shall not dissolve the corporation. The directors, until the first annual meeting after the passage of this act, shall be elected at a meeting of the stockholders convened by one or more of the corporators hereinbefore mentioned; ten days' notice of the time, place, and purposes of said meeting having been previously given in at least two newspapers published in the City of Wilmington.

How chosen.

Official term.

Corporation not dissolved on failure to elect.

Directors before first annual meeting.

President.

SECTION 7. The directors shall elect one of their number president, whose duties shall be such as the by-laws may prescribe. The directors may also appoint a secretary and treasurer, and employ such other officers, agents and servants as may be necessary; may prescribe their duties, fix their compensation, and secure their fidelity by bond, or otherwise, as they shall judge proper. The directors shall also keep, or cause to be kept, proper books, in which shall be regularly entered the transactions of the corporation, which books shall at all times be subject to the inspection of the stockholders, and the directors shall cause to be exhibited to the stockholders, at their annual meetings, a statement of the affairs and doings of the company. No director shall have any emolument except such as may be allowed by the stockholders at their annual meeting.

Secretary and Treasurer.

Books of corporation.

Annual statement of affairs of company.

By-Laws.

SECTION 8. By-laws for the government of the corporation shall be made by the directors, and they may at any time alter, amend, or add to the same.

Publication.

SECTION 9. This act shall be deemed and taken to be a public act, and the same shall be published: *Provided*, the said company shall first pay to the Secretary of State a special tax, provided for by Section 3, Chapter 1, part 1, Vol. XIII of the Laws of the State of Delaware; *And provided*, that power is hereby reserved to the General Assembly to revoke this act of incorporation.

Passed at Dover, January 30, 1867.

GENERAL CORPORATIONS.

CHAPTER 200.

GERMANIA BUILDING AND LOAN ASSOCIATION.

An Act to Incorporate the Germania Building and Loan Association in the City of Wilmington.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch concurring therein,) That Henry Bleyer, George Steinicken, Maximilian L. Lichenstein, John Fehrenbach, John Griner, John Fullmer, and such other persons as now are, or may hereafter be associated with them, shall be and they are hereby created a body politic and corporate by the name, style, and title of "The Germania Building and Loan Association," for the purpose of accumulating a fund from monthly contributions and fines, premiums on loans, and interest on investments, for the benefit of its members; and they and their successors are hereby ordained and declared a body politic and corporate, in fact and in law, and by the title aforesaid shall be able and capable, in law, to sue and be sued, plead and be impleaded in any courts of law or equity in this State, and elsewhere, in all manner of suits, complaints, pleas, causes, matters, and demands whatsoever, with all the legal incidents of a corporation aggregate; and the said corporation may have and use a common seal, and at their pleasure alter and renew the same; and by the title aforesaid shall have continuance and succession for a term not exceeding twenty years from and after the passage of this act.

Incorporation. Name. Powers. Seal. Succession.

SECTION 2. *And be it further enacted,* That the affairs of the said corporation shall be conducted by a president, vice-president, treasurer, and secretary, and fifteen managers, who shall constitute a board of directors, seven of whom shall constitute a quorum. The president, vice-president, treasurer, and managers shall be elected by the share-holders, on the first Thursday in the month of May, annually, and the secretary shall be elected annually by the board of directors. The board shall have power to fill all vacancies that may occur in their own body during the year.

Officers. How elected. Secretary, how elected. Vacancies.

SECTION 3. *And be it further enacted,* That the said corporation shall, by the name and title aforesaid, be able and capable of

Powers.

purchasing, receiving, having, holding, and enjoying to them and their successors and assigns, lands, tenements, hereditaments, annuities, money, securities, goods and chattels of what nature or kind soever, real, personal and mixed: *Provided* the same shall not exceed the sum or value of two hundred and fifty thousand dollars; and the same, from time to time, at their pleasure, to sell, grant, demise, bargain, alien and dispose of; also to make such laws, rules, contracts, and regulations, and the same to alter and amend, or repeal, as they and their successors shall deem to be proper and expedient for the good government and conducting the affairs or business of said corporation, and generally to do all and singular the matters and things proper for the well-being of said corporation: *Provided* the same shall not be contrary to this act, the constitution and laws of the United States, or of the State of Delaware, and that nothing herein contained shall confer upon said association or corporation any banking power or privileges whatever.

Limitation of property.

Banking powers not conferred.

SECTION 4. *And be it further enacted,* That this act shall be deemed and taken to be a public act, and the same shall be published, provided the said company shall first pay to the Secretary of State a special tax provided for by Section 3, Chapter 1, Part 1, Vol. XIII of the Laws of the State of Delaware; and the power to revoke the same is hereby reserved to the Legislature.

Publication.

Passed at Dover, February 11, 1867.

CHAPTER 201.

MUTUAL LOAN ASSOCIATION.

An Act to Incorporate the Mutual Loan Association.

Incorporation.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-*thirds of* each branch concurring therein), That Joshua Maris.

GENERAL CORPORATIONS.

William H. Cloward, George C. Maris, William T. Westbrook, Alexander Chandler, Washington Mason, Albert B. Gillespie, John E. Frock, Robert S. Hickman, Henry Flemming, Newlin Pyle, Isaac Woodrow, William C. Martin, John B. Porter, Jr., James M. Peoples, Charles S. Robb, and such other persons as now are or may hereafter be associated with them, shall be and they are hereby created a body politic and corporate by name, style and title of "Mutual Loan Association," for the purpose of accumulating a fund from monthly contributions and fines, premiums on loans, and interest on investments, for the mutual benefit of its members; and they and their successors are hereby ordained and declared a body politic and corporate in fact and in law, and by the title aforesaid shall be able and capable in law to sue and be sued, plead and be impleaded, in any courts of law or equity in this State, and elsewhere, in all manner of suits, complaints, pleas, causes, matters and demands whatsoever, with all the legal incidents of a corporation; and the said corporation may have and use a common seal, and at their pleasure alter or renew the same, and by the title aforesaid shall have continuance and succession for a term not exceeding twenty years from and after the passage of this act.

Name.

Object.

SECTION 2. *And be it further enacted,* That the affairs of the said corporation shall be conducted by a president, vice president, secretary and treasurer, and nine directors, who shall constitute a board of directors, seven of whom shall be a quorum. At the first meeting after the passage of this act there shall be elected a president, vice president, secretary and treasurer, (who shall be elected annually,) also nine directors, (who shall meet and divide themselves into three classes, for one, two and three years,) and at every annual meeting thereafter, three directors shall be elected to serve three years. The board shall have power to fill all vacancies that may occur in their own body during the year.

Officers.

Election of officers.

Vacancies.

SECTION 3. *And be it further enacted,* That the said corporation shall, by the name and title aforesaid, be able and capable of purchasing, receiving, having, holding and enjoying, to them and their successors and assigns, lands, tenements, hereditaments, annuities, money, securities, goods and chattels of what nature or kind soever, real, personal, and mixed: *Provided,* The same shall not exceed the sum or value of four hundred thousand dollars; and the same from time to time at their pleasure to sell, grant, demise, bargain, alien and dispose of; also to make such laws, rules, contracts and regulations, and the same to alter, amend or repeal as they and their successors shall deem to be proper and expedient for the good government and management of the affairs or business of said corporation, and generally to do all and singu-

Powers.

Limitation of property.

lar the matters and things proper for the well-being of said corporation: *Provided,* The same shall not be inconsistent with this act, the Constitution and Laws of the United States, or of the State of Delaware, and that nothing herein contained shall confer upon said association or corporation any banking powers or privileges whatever.

Not to exercise banking powers.

Publication.

SECTION 4. *And be it further enacted,* That this act shall be deemed and taken to be a public act, and on payment of the sum of twenty dollars to the Secretary of State, shall be published by him among the laws of this State passed at the present session, and the power to revoke the same is hereby reserved to the Legislature.

Passed at Dover, February 13, 1867.

CHAPTER 202.

BRANDYWINE WATER POWER COMPANY.

An Act to Incorporate the "Brandywine Water Power Company."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring),

Commissioners to procure subscriptions.

SECTION 1. That William Lea, James E. Price, Charles H. Gallagher, Joseph Tatnall, Jesse Sharp, Gregg Chandler, Delaplain McDaniel, George G. Lobdell, Edward Betts, James Brad-

ford, Lea Pusey, William S. Hilles, William Tatnall, Edmund A. Harvey and James A. Knowles be, and they are hereby appointed commissioners to procure subscriptions to the capital stock of the corporation hereinafter created, and for that purpose they shall open books of subscription, at such times and places, and under such regulations as they may determine, first giving ten days' public notice, by advertisements in two newspapers of this State, of the time and place of receiving subscriptions. The subscriptions to said capital stock may be made either in person or by attorney. Any commissioner may subscribe for and hold such stock. Ten per centum of the amount of stock subscribed shall be paid to the commissioners at the time of subscription. Whenever subscriptions shall have been made to the amount of twenty-five thousand dollars, and ten per centum thereof paid as aforesaid, the subscription may be closed, and the commissioners shall call a meeting of the subscribers, to be held in the City of Wilmington, upon ten days' notice thereof, published in two newspapers of the State, for the purpose of organizing the company or corporation by the election of officers. Five of the commissioners shall form a quorum for the transaction of business, and a majority of those present at a meeting may determine any question. If any commissioner above named shall decline to perform the duties herein prescribed, the remaining commissioners may, if they deem it expedient, appoint another person to act in his stead. Upon the organization of the company, the commissioners shall pay to the treasurer of the corporation the amount of money received by them, first deducting expenses actually incurred.

Notice of opening books.

Subscriptions, how made.

What amount to be paid in.

When books to be closed and meeting called.

Notice.

Purpose of meeting.

Quorum.

Vacancy.

Money to be paid to Treasurer.

SECTION 2. When and as soon as twenty-five thousand dollars of capital stock shall have been subscribed, and ten per centum paid as aforesaid, the subscribers and their successors shall become and they are hereby declared to be a body corporate, under the name of "The Brandywine Water Power Company," and by that name shall have perpetual succession, with power to sue and be sued, plead and be impleaded in all courts of law and equity; to have and use a common seal and the same to alter and renew at pleasure; to ordain by-laws for the government of the corporation not inconsistent with the Constitution and Laws of the United States or of this State; to purchase, take, hold, possess and enjoy, to them and their successors, and to grant, bargain, sell, alien, demise and dispose of for any term, any mills, mill-buildings, water-powers, water-rights, rents, liberties, easements, or privileges, or real estate of any kind, and any personal property, goods or effects; to erect suitable houses, buildings, improvements, mills, manufactories, machine shops, docks, wharves, abutments, dams, races, bridges, or piers, and to transact

Incorporation.

Name.

Powers.

such other business as may be incident or appertaining to the managing, leasing, conducting, cultivating or improving the same, and generally to exercise and enjoy all the powers, rights and franchises incident to a corporation, except banking powers.

Powers.

SECTION 3. The said corporation shall have power to contract with any person or persons or corporations for building as aforesaid, to enforce the specific performance of all its contracts, to collect moneys due it, to declare dividends, and to invest money for the benefit of said corporation and to secure the same by proper evidence of indebtedness.

Capital stock

Shares.

Capital stock may be increased.

Shares to be personal estate.

Certificates of stock assignable.

SECTION 4. The capital stock of the said corporation shall be five hundred thousand dollars, to be divided into five thousand shares of one hundred dollars each: *Provided*, That the said corporation may, from time to time, by a vote of the stockholders at a meeting called for that purpose, increase the capital stock to an amount not exceeding double that sum. Shares of stock shall be personal estate. Certificates of stock signed by the president and secretary, and sealed with the corporate seal, shall be delivered to each person for such share or shares of stock as are owned by him or her, which certificates of stock shall be assignable in person or by attorney duly authorized in the presence of the treasurer or secretary, in a book to be kept by the corporation for that purpose.

Election of directors.

Continuance in office.

Failure to elect not to dissolve corporation.

Vacancies, how filled.

Voting.

Proviso.

Proxy.

Special meetings.

SECTION 5. The stockholders, at their first meeting, to be called by the commissioners as before provided, and at each annual meeting thereafter, to be held upon such day in each year as the by-laws may appoint, shall elect by ballot, and by a majority of votes, eleven directors, who shall be stockholders, to continue in office until the annual meeting next after their election, and until successors are duly chosen. A failure to elect directors shall not dissolve the corporation. Vacancies in the board may be filled by the other directors. At all elections, and in determining all questions at stockholders' meetings, each stockholder shall be entitled to cast as many votes as he or she shall hold shares of stock: *Provided*, That after the organization of the company a stockholder shall be entitled to vote only with respect to stock which shall have been held by him or her for at least thirty days before the day of voting: *And provided also*, That no one stockholder shall cast votes for more than one-fourth of the whole number of shares of the capital stock for the time being. Votes may be cast either in person or by proxy, and a majority of the votes cast shall determine any question. Special meetings of the stockholders may be called as the by-laws shall direct.

Business managed by *directors.*

SECTION 6. The affairs and business of the corporation shall be managed by the directors, six of whom shall constitute a quorum,

and a majority of those present shall determine any question. They shall elect one of their number president, and may appoint a secretary and treasurer, and employ such other officers, agents, and servants as they may deem necessary, may fix the compensation of such officers, agents, and servants, and take security, by bond or otherwise, for the faithful performance of their duties. They shall have power to make by-laws, rules and regulations for the government of the corporation, subject however to amendment, repeal or addition by the stockholders at an annual meeting. They may call for the payment of the stock subscribed at such times and in such installments as they shall deem expedient, giving public notice of such call by advertisements for at least two weeks, in two newspapers of the State. The directors shall declare dividends of so much of the net profits of the corporation as they shall deem expedient in the months of January and July of each year, which dividends shall be paid to the stockholders, on demand, ten days after the same shall have been declared: *Provided*, That no dividends shall be made except out of the net profits of the corporation.

Officers, agents and servants.

Compensation.

Bond.

By-Laws, rules and regulations.

Payment of stock subscribed

Dividends to be declared.

When.

When paid.

Proviso.

SECTION 7. If any subscriber to, or holder of the capital stock refuse or neglect to pay any installments on the stock subscribed for or held by him or her for thirty days after the time appointed for the payment thereof, public notice of such call having been given as before provided, the directors may either declare such stock forfeited, and sell the same for the benefit of the corporation, or may, in the name of the corporation, sue for and recover from such delinquent subscriber or holder the sum remaining unpaid, with costs and interest thereon at the rate of twelve per centum per annum; and no holder of such stock shall, during the time any installments shall be due and unpaid, be entitled to vote at any meeting of the stockholders, or to receive any dividends on the stock.

Penalty on failure to pay installment.

Delinquent subscribers not entitled to vote or receive dividends.

SECTION 8. This charter shall be deemed and taken to be a public act, and shall be subject to be revoked by the Legislature for the misuse or abuse of the privileges herein granted; and all acts and parts of acts of the General Assembly of this State inconsistent herewith are hereby repealed. Upon the payment to the Secretary of State of the sum of twenty dollars this act shall be published with other laws of this State.

Public act.

Revocation.

Inconsistent acts repealed

Act to be published.

Passed at Dover, February 12, 1867.

GENERAL CORPORATIONS.

CHAPTER 203.

BRANDYWINE WATER POWER COMPANY.

An Act in Relation to the Brandywine Water Power Company.

Provisions of Chap. 537, Vol. 11, extended to said company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the provisions of Chapter 537 of the 11th Volume of the Laws of this State be and they are hereby extended to the Brandywine Water Power Company. The said corporation may exercise and enjoy the same power to erect dams as is therein granted to individuals, and shall be entitled to proceed in the same manner, and shall be subject to the same terms and conditions as any person or persons under said law.

Passed at Dover, March 12, 1867.

CHAPTER 204.

HEBRON LODGE NO. 14.

10 Volume, 238. | SEC. 1. Original act extended.

10 Vol. 238. *An Act to extend the act entitled, "An Act to incorporate Hebron Lodge, No.* 14, *of the Independent Order of Odd Fellows, at Seaford, Delaware."*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring herein), as follows:

Original act extended.

SECTION 1. That the act entitled, "An Act to incorporate Hebron Lodge, No. 14, of the Independent Order of Odd Fellows, at Seaford, Delaware," passed at Dover, January 12, 1849, be and the same is hereby extended and continued in force for the period of twenty years from and after the passage of this act.

Passed at Dover, February 26, 1867.

GENERAL CORPORATIONS.

CHAPTER 205.

KENT COUNTY OYSTER CANNING COMPANY.

An Act to Incorporate the Kent County Oyster Canning Company, and for other purposes.

WHEREAS this State has, for many years, by various acts of its Legislatures, attempted, without success, to protect the several oyster beds immediately on our shore from the depredations of oystermen residing out of said State, until it has become difficult to get any prime oysters grown in our waters from any but foreign oystermen, and from them only at such prices as but few of our citizens can afford to pay; and, regarding said oyster beds as being rightfully the property of the citizens of this State, and which should be protected for their exclusive benefit by any legislation within the constitutional authority of this State: Therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of each branch concurring herein), That Doctor Henry Ridgley, James L. Heverin, William A. Atkinson, Alden B. Richardson, James W. Robbins, Henry Todd, Thomas Slaughter, George B. Dickson, Joshua McGonigal, George V. Massey, John W. Cullen, Elias S. Reed, and William M. Shakspeare be and they are appointed commissioners to do and perform the several duties and things hereinafter mentioned to be done and performed, that is to say: they or a majority of them shall procure and cause to be opened, at such time or times, place or places, and on such notice as they, or a majority of them may deem proper, suitable books for subscriptions to the capital stock of said company, and shall permit all persons of lawful age to subscribe in said books, in their own names, or in the name or names of any other person Commissioners appointed. Subscription book.

or persons, or company, who may authorize the same, for any number of shares of the capital stock of said company. The capital stock of said company shall not exceed five hundred thousand dollars, divided into shares of ten dollars each.

Capital stock

Incorporation.

SECTION 2. *And be it further enacted by the authority aforesaid,* That when and as soon as one thousand shares of the capital stock of said company shall be subscribed as aforesaid, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of "The Kent County Oyster Canning Company," and by said name the subscribers shall have existence for twenty years, and be able to sue and be sued, plead and be impleaded, in all the courts of record of this State and elsewhere, and to purchase, receive, have, hold, and enjoy to them and their successors and assigns, real and personal estate of every nature and kind whatsoever, and the same to grant, mortgage, sell, alien, and dispose of, and to declare dividends of such portion of the profits of the company as they may from time to time deem proper, also to make and have a common seal, and the same to alter and renew at pleasure, and also to make and ordain by-laws and regulations for the government of the company not inconsistent with the Constitution and Laws of this State or of the United States, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well-being and ordering of the same: *Provided however,* That nothing herein contained shall be deemed to confer any banking privileges on the said company, or any other liberties, franchises, or privileges but those which are properly incident to such a corporation.

Name.

Corporate powers.

Banking powers not conferred.

Meeting to organize company, when and where called

SECTION 3. *And be it further enacted as aforesaid,* That as soon as one thousand shares of said capital stock shall be subscribed as aforesaid, the said commissioners, after giving at least ten days notice thereof in one newspaper published in this State, or by written notices served personally on all the stockholders, shall call a meeting of the said stockholders in Dover, to organize the said company by the choice and appointment of officers as hereinafter mentioned.

Annual meetings.

SECTION 4. *And be it further enacted as aforesaid,* That there shall be an annual meeting of the stockholders of said company on the second Tuesday of January, in every year, in the town of Dover, for the purpose of electing directors and for the transaction of other business. In all meetings of the stockholders regularly convened, those present may proceed to business, and all questions shall be determined by a majority of the votes given, and all elections by the stockholders shall be by ballot, and all votes shall be given in person or by proxy, and each share of

stock shall entitle the owner thereof to one vote. Occasional meetings of the stockholders may be called by the president, at such place as he may from time to time deem expedient in furtherance of the best interest of the company. Occasional meetings.

SECTION 5. *And be it further enacted as aforesaid,* That at the first meeting of the stockholders to be held under the call of the said commissioners, and at every annual meeting to be held by them thereafter as aforesaid, they shall elect seven directors, a majority of whom shall be citizens of this State, and all of them stockholders in said company. Election of Directors. Qualifications.

The first election of directors shall be conducted by two of the said commissioners as judges thereof, and all subsequent elections of said officers shall be conducted by two of the stockholders not in the board, to be appointed by the directors for the time being as judges for that purpose.

The directors, immediately after their election and before discharging any of their duties, shall be sworn or affirmed according to law, by some officer legally authorized to administer oaths, that they will discharge their several duties with fidelity; such oaths or affirmations shall be duly certified to by the officer administering them, and be recorded on the books of the corporation. Oath.

They shall proceed to choose one of their number to be president of the company and of the said board of directors, who shall be a citizen of this State. Their term of office shall be until the annual meeting of the stockholders succeeding their election and until their successors shall be duly elected and qualified. The directors shall also appoint, immediately after their election, a secretary and treasurer of the said company, who shall continue in office for the term aforesaid, and until their successors shall be duly appointed and qualified, unless sooner removed for sufficient cause by the directors. They shall require of the treasurer, on his appointment, a bond with sufficient security for the proper performance of the duties of his office and the faithful discharge of the trusts reposed in him by the said company. A majority of the whole number of directors shall constitute a quorum for the transaction of business, and in the absence of the president, may appoint a chairman of the board *pro tempore.* Vacancies in the board of directors, and in the offices of president, secretary and treasurer, may be filled by the remaining directors, to continue in office as aforesaid. President. Official Term. Secretary and Treasurer. Official term. Bond of Treasurer. Quorum of Directors. Vacancies.

SECTION 6. *And be it further enacted as aforesaid,* That the said president and directors shall hold their meetings in the town of Dover, and at such other places as they may from time to time deem expedient, and the directors aforesaid shall have the Meetings of President and Directors, where held.

general direction, conduct and management of the property and operations of said company, and for that purpose shall have power to appoint, engage, and employ all such officers, agents, workmen and laborers, and to build, hire, purchase, or procure in any other way, such necessary boats and other fixtures, including warehouses and other buildings, as shall be deemed necessary and expedient in carrying into execution the designs and purposes of this corporation; they shall also have power to make and prescribe all by-laws and regulations necessary for the government of the company, and to provide certificates of stock under the seal of the company, and the signature of the president, and countersigned by the secretary, for all the shares of stock subscribed to the capital stock of said company, and to prescribe the mode of assigning the same, and generally to do all such other matters and things which by this act and the by-laws and regulations of the company they shall be authorized to do.

Powers of Directors.

Certificates of stock.

SECTION 7. *And be it further enacted as aforesaid,* That it shall be the duty of the president and directors, when they shall have procured the certificates of stock, and signed and countersigned the same as provided for in the foregoing section, to issue to the subscribers therefor such certificates in accordance with the number of shares of the capital stock of said company by them respectively subscribed, which shall be assignable at the will of the holder in the method prescribed in the by-laws of said company; and the assignee of any such certificates so transferred shall be a stockholder in said company, and shall be entitled to all the rights and emoluments incident thereto, and be subject to all the installments, forfeitures and penalties due or to become due thereon as the original subscriber would have been.

Installments

SECTION 8. *And be it further enacted as aforesaid,* That the subscribers to the said capital stock of said company shall pay to the treasurer thereof the installments on each share by them subscribed as the same shall be respectively called in, pursuant to the public notice and call or calls of the said directors, or a majority of them; and if any subscriber shall omit, for thirty days after any such call, to pay any such installment at the time and place appointed in said notice, he shall pay in addition to the installment at the rate of two per cent. a month for the delay of such payment, or the shares so held by him, her, or them, with all the previous installments which may have been paid thereon, may be declared forfeited to the company at the option of the directors of said company. All sums of money which may accrue to the company under this section may be sued for and recovered as debts of like amount are recoverable by the laws of *this State: Provided,* That no stockholder shall be entitled to

Consequences of neglect to pay.

Provisions for the recovery.

Proviso.

vote at any election, or in any meeting of said company, on whose shares any installment shall have been due and payable more than thirty days previous to such election or meeting, and is still unpaid at that time.

SECTION 9. *And be it further enacted by the authority aforesaid,* That the said president and directors shall, from time to time, make and declare dividends of the nett profits of the business of the company, or of such portion thereof as they may deem advisable, the time or times for which shall be fixed by the by-laws of said company, and public notice thereof shall be given by them, and at each annual meeting of the stockholders of said company it shall be the duty of the president and directors of the preceding year to submit a report, and to exhibit to them a full and correct statement of the proceedings, business, and affairs of the said company for that year. Dividends. Report of business of Company.

SECTION 10. *And be it further enacted as aforesaid,* That in aid of the enterprise contemplated by this act, the said company is hereby granted, as against all persons not citizens of this State, the exclusive right to take, catch, and use all the oysters now growing or which may hereafter grow, during the existence of this charter, on the oyster beds under the waters of the Delaware Bay, commonly called and known as "The Duck Creek Oyster Beds," or by whatever name the same may be known, the same being situated near to the western shore of said bay and nearly opposite the mouth of the creek called "Simons or Dona Creek," and the same to protect as hereinafter provided. And the said company may, for the purpose of taking and collecting said oysters for use, employ all such ways and means as to them shall seem most conducive to the interest of the stockholders, and when so taken may preserve the same by canning them or otherwise disposing of them as shall be deemed best for the interest of said company: *Provided however,* And it is expressly hereby declared to be the true intent and meaning of this act, that all the citizens of this State shall have and exercise all the rights to catch and use the oysters growing on the before-mentioned oyster beds as well after the passage of this act as before its passage, except that another or other associated companies for canning oysters shall not be allowed to take and catch the oysters on said beds without becoming stockholders in said company, and bearing their proportion or share of the expense of protecting said oyster beds against any person not a citizen of this State. Exclusive rights of Company.

SECTION 11. *And be it further enacted by the authority aforesaid,* That said company shall have the right to use and occupy the bed of any portion of Dona Creek or Mahon River, not already occupied for that purpose by citizens of this State, for the pur- Right to bed oysters in Dona Creek conferred.

pose of laying out or planting oysters for the use of said company, so using the same as not to obstruct the navigation thereof or otherwise inconvenience the citizens of this State in the use of said water-courses, and all the laws now in force for the protection of planted or laid out oysters shall extend to and apply to the oysters planted or laid out by said company: *Provided however,* That in case of any resort to the laws of this State for the protection of the oysters so as aforesaid planted or laid out, all the expenses incurred in the premises shall be borne by the company.

Tax to the State.

SECTION 12. *And be it further enacted as aforesaid,* That the company shall pay into the treasury of this State the sum of two cents per bushel for all the oysters taken, catched, used, or disposed of from the aforesaid oyster beds, an account of which shall be kept and returned at each annual meeting of said company, when the payment into the treasury of this State shall be made as aforesaid.

Certain laws of the State extended to protect the company.

SECTION 13. *And be it further enacted as aforesaid,* That for the purpose of protecting the franchises hereby granted to said company, the several provisions of Chapter 55 of the Revised Code or Statutes of this State, and all other laws or parts of laws now in force in this State for the protection of fish, oysters and game, shall extend to and apply to the oyster beds and oysters hereby granted to said company: *Provided however,* That all the expenses incurred in the enforcement of the laws herein referred to for the protection of the rights of said company shall be borne by the corporation and not by the State.

Penalty for injury to works of company.

SECTION 14. *And be it further enacted as aforesaid,* That if any person or persons shall willfully and intentionally damage any part of the works and property of the said company, he, she, or they so offending shall be deemed and held to be liable to the company, in a civil action, for double damages sustained, and shall moreover be guilty of a misdemeanor, and on indictment and conviction shall be fined in any sum not exceeding one thousand dollars, at the discretion of the court, and committed to the common jail of the county until said fine and costs shall be paid; and in the event of the party so convicted being unable to pay any fine which may be imposed as aforesaid, the court may sentence him or her to imprisonment as a punishment for said offence at their discretion.

Public act.

SECTION 15. *And be it further enacted as aforesaid,* That this act shall be deemed to be a public act, and may be pleaded and given in evidence as such in all the courts of this State and elsewhere, and that this charter shall be in force for twenty years *and no longer,* without re-enactment, and the right of revocation

is hereby reserved to the Legislature for any misuse or abuse of the franchises hereby granted to said company. The company hereby incorporated shall pay all the expenses of the publication of this act, not to exceed in amount twenty dollars. Publication.

Passed at Dover, March 21, 1867.

CHAPTER 206.

SEAFORD ODD FELLOWS' HALL COMPANY

12 Volume 249. | SEC. 1. Section 8 amended. How.

A Supplement to the act entitled "An Act to incorporate The Seaford Odd Fellows' Hall Company at Seaford.," passed at Dover, February 7, 1862. 12 Vol. 249

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (with the concurrence of two-thirds of each branch of the Legislature,) That the act entitled "An Act to incorporate the Seaford Odd Fellows' Hall Company at Seaford," passed at Dover, February 7, 1862, be and the same is hereby amended by inserting the words "in the third story," after the word "apart," and before the word "for," in third line of Section 8, and inserting the words "and Hiram Lodge, No. 21, of the Ancient Order of Free and Accepted Masons at Seaford, Delaware, and such other Lodge or Lodges of the Masonic Order as are or may hereafter be organized according to the rules and regulations of said order," after the word "order," and before the word "the," in the 8th line of said Section 8. Section 8, amended. How.

Passed at Dover, March 20, 1867.

CONCERNING ROADS.

CHAPTER 207.

ROADS IN ST. GEORGE'S AND APPOQUINIMINK HUNDREDS.

11 Vol. 689. *An Act to Repeal Chapter DCIII of the Eleventh Volume of the Laws of Delaware.*

Act repealed. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter DCIII, of the Eleventh Volume of the Laws of this State, entitled "An Act in relation to public roads and highways in St. George's and Appoquinimink hundreds, in New Castle county," is hereby repealed, made null and void.

Passed at Dover, March 20, 1867.

CHAPTER 208.

ROADS IN MILL CREEK HUNDRED.

11 Volume, 60.
SEC. 1. Addition to Section 6 of original act. Delinquents disqualified.
SEC. 1. Commissioners to notify delinquents. Penalty for neglect.

11 Vol. 60. *An Act to amend Chapter 66 of the Eleventh Volume of the Delaware Laws, entitled "An Act in relation to Public Roads and Highways in Mill Creek Hundred, in New Castle County."*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Addition to Sec. 6 of original act. SECTION 1. That Section 6 of Chapter sixty-six of Eleventh Volume of the Delaware Laws, entitled "An Act in relation to public roads and highways in Mill Creek hundred, in New Castle county," be amended by adding thereto as follows, to wit:

Delinquents disqualified. "And every person becoming a delinquent according to the terms of this section shall thereby be disqualified from being a purchaser at the next public sale of roads, and it shall be the duty of the road commissioners, at any sale, to refuse the bid of such delinquents; and further, it shall be the duty of the road commissioners, upon having occasion to notify persons of neglect, to notify them also of the consequences of their delinquency; and in case said road commissioners shall wilfully neglect to perform

Commissioners to notify delinquents.

the duties required by this section, and fail to procure the repair of all sections of the public roads neglected by the purchasers thereof within fifteen days after notice given to the neglectful purchaser, that then and in that case the said commissioners shall become liable to a fine of ten dollars and costs for each and every section so left unrepaired, said fine to be collected as debts of like amount are collected by any justice of the peace in New Castle county, before whom complaint and due proof of willful neglect shall be laid by any party interested in said roads; one-half said fine to be paid to the complainant, and the other half thereof to the collector of said hundred, for the benefit of the public roads therein."

Penalty for neglect.

Passed at Dover, March 13, 1867.

CHAPTER 209.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act appointing Commissioners to change and straighten the Course of a Public Road in Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That John M. Voshell, Peter S. Collins, William C. Mitchell, Pressley Ford and James Hoffecker be and they are hereby appointed commissioners to go upon and view the public road in Duck Creek hundred, leading from the Leipsic and Steamboat Landing road, at a corner for lands of David J. Cummins and Pressley Ford, to the road running to Carrolltown school-house; and if, in their judgment, or in the judgment of a majority of them, the public convenience would be promoted by changing the course of a part of said public road, they, or a majority of them, are hereby authorized to change and straighten said public road as follows, to wit: beginning at the above named corner for lands of David J. Cummins and Pressley Ford, running along the line

Commissioners.

Course of new road.

of lands of David J. Cummins, through the lands of Jonathan E. George, Isaac Register, Isaac Sutton and Matthew Ford, until it strikes a bend in the road running to Carrolltown school-house at the corner of Matthew Ford's old peach orchard.

Map and returns.

SECTION 2. *And be it enacted by the authority aforesaid,* That the commissioners aforesaid, or a majority of them, are hereby authorized, with the assistance of some skillful surveyor, to be selected by them, to cause a map of the courses and distances of the road, as hereby authorized to be changed and straightened, to be made out and returned to the office of the Clerk of the Peace in and for Kent county aforesaid, with an estimate of the costs of opening said road for public travel, and an assessment of damages, if any be allowed, to the persons through whose lands the alteration in said road shall pass.

Levy Court may adopt.

SECTION 3. *Be it further enacted,* That the Levy Court of Kent county may adopt the alterations and changes made by the commissioners aforesaid as a part of the road leading from the Leipsic and Steamboat Landing road aforesaid to the Corrolltown school-house road aforesaid, and may make appropriations for opening the same for public travel; and the road, when so opened, shall be deemed and taken to be a public road, and that part of the old road superseded by the alterations and changes hereby authorized to be made shall thereupon be vacated, and may be enclosed by the persons through whose lands the said vacated portion of the old road passes, and in any proceedings against them for so doing they may give this act in evidence under the general issue as their sufficient justification.

Old road vacated.

Commissioners to be sworn.

SECTION 4. *Be it further enacted,* That the commissioners aforesaid, before entering upon their duties under this act, shall be severally sworn or affirmed to discharge the duties herein imposed impartially, and to the best of their skill and judgment, and may respectively administer the oath or affirmation to each other. They shall receive each the sum of two dollars for each days attendance as commissioners aforesaid, to be allowed, together with all other costs, by the Levy Court of Kent county as in other cases.

Compensation.

Public act.

SECTION 5. *Be it further enacted,* That this act shall be deemed and taken to be a public act.

Passed at Dover, January 18, 1867.

CONCERNING ROADS.

CHAPTER 210.

ROAD IN INDIAN RIVER HUNDRED.

An Act to Amend Chapter 61 *of Volume* 13 *of the Delaware Laws.* Current Vol. 71.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 61 of Volume 13 of the Delaware Laws be and the same is hereby amended by striking out the word "Angola," in the fourth line of Section 1 of said Chapter, and inserting in lieu thereof the words "St. George's Chapel"; and striking out the words "again near a school house on said road," in the eighth and ninth lines of said Section 1 of said chapter. Sec. 1 amended. How.

Passed at Dover, March 20, 1867.

CHAPTER 211.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Duck Creek Hundred, Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That David L. Spruance, Peter Meredith, Robert H. Cummins, Henry C. Douglass and Nathan T. Underwood be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a new public road in Duck Creek hundred, in the county of Kent, beginning at [a] road (called the "Voshell Road,") near where the Del. & Md. railroad crosses the said road, thence through the lands of Bayard Brister, (n), Enoch Spruance, Miss Sarah Cummins, Samuel Griffin, and James Jones, to the road known as the Baptist Meeting House Commissioners. Location.

road, and if they, or a majority of them, shall determine that there is need of such new public road, they shall, with the assistance of some skillful surveyor, to be selected by them, lay out such new road as they shall deem proper, having respect to the nature of the ground, shortness of the distance, and all the circumstances of public convenience, and shall cause a plot thereof to be made, representing the courses and distances thereof, with notes of the most remarkable places through which the same may pass, and they shall assess the damages of every owner of said lands, taking in consideration all the circumstances of benefit as well as injury, which will accrue to each of said owners, and they shall make a computation of the cost of opening and making said new road, bridges and causeways included, setting down the several items of said cost, and, if a road be laid out, shall, in their return, set forth a description of said road, and their determination that there is need of the same for public convenience, and shall annex to their said return the aforementioned plot.

Plot of road.

Damages assessed.

Costs computed.

Return of plot, &c.

SECTION 2. *And be it further enacted,* That the plot and return so to be made as aforesaid, by the said commissioners, shall be returned, immediately upon the completion thereof, to the Clerk of the Peace in and for Kent county, to be by him laid before the Levy Court, and the said Levy Court in and for Kent county may establish said road as a public road or highway, and may settle and pay such damages as shall have been assessed by said commissioners to the persons severally entitled, and when said road shall have been so established as a public road by the Levy Court of said county, the same shall be and remain subject to the same regulations and laws as other public roads in Kent county.

Levy Court may adopt.

Public road.

Commissioners and Surveyor to be sworn.

SECTION 3. The said commissioners and surveyor, before performing their respective duties under this act, shall be sworn or affirmed to perform the same according to the best of their judgment and skill respectively, which oath or affirmation may be administered by any officer qualified to administer oaths in said county, or either of said commissioners may administer the same to any other of said commissioners, or the surveyor. The acts of a majority of said commissioners shall be valid as if concurred in by all of them; and in case of a vacancy or vacancies, from any cause, another or others may be appointed commissioner or commissioners by a judge of this State, or by any justice of the peace in said county.

Oath, by whom administered.

Acts of majority to be valid.

Vacancies.

Compensation.

SECTION 4. *And be it further enacted,* That the pay of the commissioners for their services shall be two dollars per day, each, while attending to their duties as commissioners as aforesaid, and the pay of surveyor shall be fifteen dollars for making the survey and plot of said road, and these, together with all other cost,

may be allowed by the Levy Court of Kent county, as in other cases.

SECTION 5. *Be it further enacted,* That this act shall be deemed and taken as a public act. Public act.

Passed at Dover, January 31, 1867.

CHAPTER 212.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act to authorize Alfred T. A. Torbert to straighten a Public Road upon his own land in Milford Hundred, Kent County, at his own expense.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Alfred T. A. Torbert be and he is hereby authorized and empowered to alter and straighten that portion of the public road leading from Milford to Harrington Station which crosses his farm in the tenure of Z. Reynolds. A. T. A. Torbert authorized to change a road.

SECTION 2. *And be it further enacted as aforesaid,* That the said Alfred T. A. Torbert shall lay out and make said road of the width of thirty feet at least, at his own cost and charges, and put the same in good order for the public use: then and from thenceforth the same shall be deemed and taken as the public road. Width of road. Costs of making, how borne.

SECTION 3. *And be it further enacted as aforesaid,* That after the said road shall have been laid out, opened, and made as aforesaid, it shall be lawful for the said Alfred T. A. Torbert to enclose such portion of the old road as is rendered useless by the said change. Old road vacated.

Passed at Dover, January 31, 1867.

CONCERNING ROADS.

CHAPTER 213.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act to authorize Charles Brown to change and straighten a Public Road in West Dover Hundred, Kent County, and for other purposes.

Chas. Brown authorized to change a road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Charles Brown be and he is hereby authorized and empowered to change and straighten the public road running from Kenton to the public road running from Dinah's Cross Roads to Short's Corner, where the same passes through his land in West Dover hundred, at his own expense: *Provided* the road hereby authorized to be changed and made shall not be less than thirty feet in width.

Old road, when vacated.

SECTION 2. *And be it further enacted by the authority aforesaid,* That when the road hereby authorized to be changed and straightened as aforesaid shall be put in good order for public use at the expense of the said Charles Brown, the same may be accepted by the Levy Court of Kent county and thereafter the road disused shall be vacated.

Passed at Dover, February 6, 1867.

CHAPTER 214.

ROADS IN DUCK CREEK HUNDRED.

An Act authorizing the laying out of Certain Roads in Duck Creek Hundred in Kent County.

Commissioners appointed to lay out certain roads

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That James S. Crawford, Robert Hill, Ayres Stockly, William Denney and John H. Hoffecker be and they are hereby appointed

commissioners, who shall, with the assistance of some skillful surveyor to be selected by them, as soon as conveniently practicable after the passage of this act, lay out the following public roads in Duck Creek hundred, in Kent county, viz:

The different roads to be laid out, and their locations.

A road of the width of forty feet, beginning at the Smyrna and Kenton road at the division point between lands late of Daniel Cummins and lands of John Anthony, and running thence wholly on lands late of Daniel Cummins, and binding with the line of Anthony until it reaches the line between lands of John P. Reese, and land late of Daniel Cummins; thence in a straight direction through lands of John P. Reese until it crosses the line of John Cloak's lands; thence through lands of John Cloak and lands of John P. Reese until it strikes the Kenton road, being the road leading from the road from Smyrna to Dover towards Kenton, at a point which will continue the road hereby authorized in the same course with the Kenton road aforesaid.

A road of the width of sixty feet, beginning at the southern terminus of Methodist street, in the town of Smyrna, as the same is now opened, and continuing said street in the same course as it now runs, but of the width of sixty feet measured from the centre of Methodist street at its present terminus aforesaid, and continuing until it joins the road above authorized to be laid out.

A road of the width of forty feet, beginning at the southern terminus of South street, in said town of Smyrna, as the same is now opened, and running thence parallel with Methodist street as now laid out, and with the new road above last mentioned, and continuing until it joins the road herein above first authorized.

A road of the width of sixty feet, beginning at the main road leading from Smyrna to Odessa, at the point on said road which is the dividing corner between lots of John M. Voshell and Ephraim Start, and running thence by a line parallel with Methodist street aforesaid, as now opened, and parallel with the road above authorized to be laid out in continuation thereof, and continuing until it strikes the road from Smyrna to Kenton.

A road of the width of sixty feet, running parallel with the railroad from Smyrna to the depot, and at the distance of three hundred and sixty feet from said railroad, measuring from the centre of said railroad to the centre of the road hereby authorized, and so as that the said road hereby authorized shall extend from the road herein first above mentioned to the road from Smyrna depot to Millington.

CONCERNING ROADS.

Plot of roads

SECTION 2. *And be it further enacted,* That the said commissioners, after having laid out said public roads as above specified, shall cause a plot thereof to be made, representing the courses and distances thereof, with notes of the most remarkable places, and of the woodland, cleared land, and improvements by or through which the same shall pass, and they shall assess the damages of every owner of said lands and premises by reason of laying out said roads, taking into consideration all the circumstances of benefit as well as injury which will accrue to each of said owners. And they shall make a computation of the costs of opening and making each of said roads, and making any bridges and causeways thereon, setting down the several items of said cost.

Plots, when completed where returned.

SECTION 3. *And be it further enacted,* That the said commissioners shall, as soon as such plots are completed, make return of their proceedings and the plot aforesaid, to the Clerk of the Peace in and for Kent county, to be filed in his office, and from the time of such return the said roads so laid out shall be established as public roads in Kent county, to be kept up and maintained as other public roads therein, and be subject to the same regulations and laws. The said return and plot shall be laid before the Levy Court of Kent county at its next session after such return shall be filed as aforesaid, and the said Levy Court may make appropriations for opening the said roads and for settling such damages as shall have been assessed by said commissioners.

Commissioners and surveyor to be sworn.

SECTION 4. *And be it further enacted,* That the said commissioners and surveyor, before performing their respective duties under this act, shall be sworn or affirmed to perform the same according to the best of their skill and judgment. Either of said commissioners may administer the same to the other commissioners and the surveyor. The acts of a majority of said commissioners shall be as valid as if concurred in by all. In case of vacancy or vacancies another or other commissioners may be appointed by any judge of this State.

Acts of majority valid.

Vacancies.

Certain road vacated.

SECTION 5. *And be it further enacted,* That when and so soon as the road above authorized in continuation of South street shall have been opened, then the road now called Rees' Lane, leading from Commerce street through the lands late of Daniel Cummins to the land of John Anthony, shall be vacated as a road and the several owners are hereby authorized to occupy and enclose the same.

Passed at Dover, February 13, 1867.

CONCERNING ROADS.

CHAPTER 215.

PUBLIC ROAD AUTHORIZED.

An Act to provide for the Laying out and Establishing a New Public Road in the Western part of Dover Hundred, in Kent County, State of Delaware.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That John Green, William C. Jump, John N. Wilds, William Virden and John J. Voshell be and they are hereby appointed commissioners, whose duty it shall be to go upon and view the premises and determine whether there is need of a new public road in the western part of Dover hundred, in Kent county, and State of Delaware, to commence at or near Arthursville, and running in a north-westerly direction across lands of William F. Hawkins, lands of Samuel Powell, and lands of John Martin, to a cross fence between John Grinage and Charles Dunlap, thence running on the division line between lands of the said John Grinage and Charles Dunlap until it intersects the road leading from George Ford's corner to the Sandfield road; and if the said commissioners, or a majority of them, shall be of the opinion that there is need of such new public road as that above described, then they shall, with the assistance of some skillful and impartial surveyor, to be by them selected, lay out such new public road as shall be most proper, having respect to the nature of the ground, shortness of the distance, and all circumstances of public or private convenience or detriment, and shall cause a map of such new public road to be made, showing the courses and distances thereof, the cleared land and wood land, with notes of the most remarkable places and improvements by or through which the same will pass, and shall assess the damages to every the owners or holders of the lands and improvements which shall be occasioned by the opening of such new public road, taking into consideration all the circumstances of benefit or injury which will accrue to such owners or holders therefrom, and shall also make an estimate of the cost of making and opening such new public road, and of making and constructing the bridges and causeways thereon, (if any such shall be required), setting down the several items of said costs; and if such new public road, as that above described,

Commissioners appointed.

Location.

Surveyor.

Map.

shall be laid out, then the said commissioners shall, in their return, set forth a description of such new public road, and that, in their opinion, there is need of the same for public travel and convenience, the damages assessed to the owners or holders of land, and all other matters proper and right to be set forth therein, and they shall annex to their said return the map of the said new public road.

Damages.

Map and return.

SECTION 2. *And be it further enacted,* That the map and the return so to be made by the said commissioners, as directed in the preceding section, shall be by them returned, as soon as conveniently may be after the passage of this act, to the Clerk of the Peace in and for Kent county, to be by the said Clerk of the Peace laid before the Levy Court of Kent county, at their next meeting after the same shall be returned to him; and if the said Levy Court of Kent county shall approve of such new public road, as above described, it shall be the duty of the said Levy Court to make such appropriation out of the funds of Kent county as shall be necessary to settle the damages which shall have been assessed by the said commissioners and also to defray all the costs and expenses of laying out, opening, and making such new public road, and of making and constructing the bridges and causeways thereon, (if any such shall be required), and the said Levy Court may appoint an overseer for said new public road, whose duty it shall be to make and open said new public road, and to make and construct the bridges and causeways thereon, (if any such shall be required), and fully and properly to complete and prepare the same for public use and travel. And when the said new public road shall be completed and prepared for public use and travel, then and thereafter the same shall be and hereby is declared to be a public road of Kent county, and from thenceforth shall be kept open, repaired, and maintained in all respects as other public roads in Kent county are kept open, repaired, and maintained.

Levy Court of Kent county to approve of same.

Overseer.

Opening of new road.

Commissioners and surveyor to be sworn.

SECTION 3. *And be it further enacted,* That the said commissioners appointed by this act, and the surveyor by them selected, shall, before performing any of the duties herein required of them, be severally sworn or affirmed to discharge the duties imposed upon them by this act, and the surveyor to perform the duties for which he is employed, faithfully and impartially, according to the best of their skill and judgment respectively, which oath or affirmation may be administered by any one of the said commissioners to the others, and to the surveyor. The acts of a majority of said commissioners shall be as binding and valid as if all of them had concurred therein. In any case of a vacancy among said commissioners, from any cause whatever, such

Who to administer oath.

Acts of majority binding.

Vacancies.

vacancy or vacancies may be filled by the remaining commissioners, and such new commissioner or commissioners shall be subject to the same duties and obligations as those appointed by this act.

SECTION 4. *And be it further enacted,* That the commissioners and the surveyor and chain-carriers to be by them selected, shall severally be entitled to and receive the same compensation as is now provided by law for similar services under an order of the Court of General Sessions of the Peace and Jail Delivery of the State of Delaware in and for Kent county to lay out a new public road, which expenses, as well as all other expenses of said new public road, shall be allowed and defrayed by the said Levy Court of Kent county. Compensation.

Passed at Dover, February 14, 1867.

CHAPTER 216.

CHANGE OF PUBLIC ROAD.

SEC. 1. H. B. Hopkins to change public road. | SEC. 2. Old road vacated.

An Act to authorize Hooper B. Hopkins to straighten a Public Road in Mispillion Hundred, in Kent County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That Hooper B. Hopkins be and he is hereby authorized and empowered, at his own expense, to straighten that portion of the public road running through lands of the said Hooper B. Hopkins, in Mispillion hundred, in Kent county, known as the road leading from the Currey Farm to Marshy Hope Bridge. H. B. Hopkins to change public road.

SECTION 2. *Be it further enacted by the authority aforesaid,* That the road so straightened shall be a public road, and that the old road shall be vacated whenever the said new road shall be accepted by the Levy Court of Kent county. Old road vacated.

Passed at Dover, February 19, 1867.

CONCERNING ROADS.

CHAPTER 217.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out of a New Public Road in Murderkill Hundred, Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Ambrose Broadaway, William B. Stubbs, Henry Cowgill, Thomas Gooden, and Henry C. Carter, of Murderkill hundred, in Kent county, be and they are hereby appointed commissioners to go upon and view the premises, and determine whether there is need of a new public road in said hundred, commencing at a point in the road leading from Du Pont's school house to the road leading from Canterbury to the Willow Grove, at or near the corner of lands belonging to Luther and Thomas G. Reynolds, and the heirs of Rachel Reed, and running thence through lands of the said Luther and Thomas G. Reynolds, John, Joseph and Charles Reed and Elizabeth Clark, heirs of Rachel Reed, deceased, William O. Kline and Elizabeth Jacobs, heirs of Isaac Kline, deceased, John B. Conner and Jonathan Catlin, to a point in the road called "Caulk road," at or near Willow Grove Station on the Delaware Railroad; and, if the aforesaid commissioners, or a majority of them, shall determine that there is need of a new public road as above mentioned, then they shall, with the assistance of some skillful surveyor, to be by them employed, lay out such public road as shall be most proper, having respect to the nature of the ground, the shortness of the distance, and all circumstances of public or private convenience or detriment, and shall cause a plot of the said road to be made, representing the courses and distances thereof, and shall assess any damage which may accrue to the owner or owners of the lands through which the said public road shall pass, taking into consideration all the circumstances of benefit, as well as injury, which will inure to each of the owners, and shall make a computation of the costs of opening and making said public road, and making the causeways and bridges thereon, if any, setting down the several items of said costs, and shall, in their return, set forth a description of the said public road, and their determination that there is need of the same for public convenience, and shall annex to their return the above mentioned plot.

Commissioners appointed.

Location.

Surveyor to lay out road.

Plot.

Computation of costs.

Return to be annexed to plot.

CONCERNING ROADS.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the plot and return so to be made as aforesaid, by the said commissioners, or a majority of them, shall be returned to the Clerk of the Peace in and for Kent county, to be by him laid before the Levy Court of the said county, and the said Levy Court may adopt and establish the said public road, and may make such allowance for damages to persons through whose lands the said public road may pass as they shall deem right and proper.

Return and plot to be laid before Levy Court.

SECTION 3. *And be it further enacted by the authority aforesaid,* That the aforesaid Ambrose Broadaway, William B. Stubbs, Henry Cowgill, Thomas Gooden, and Henry C. Carter, and the surveyor employed by them, shall, before entering upon the discharge of the duties herein assigned them, be severally sworn or affirmed to perform the duties incumbent upon them under this act, faithfully and impartially, according to the best of their skill and judgment, and for such services they shall each receive a proper compensation, to be made by the Levy Court of Kent county.

Commissioners and Surveyor to be sworn.

Compensation.

SECTION 4. *And be it further enacted by the authority aforesaid,* That this shall be deemed and taken to be a public act.

Public act.

Passed at Dover, February 19, 1867.

CHAPTER 218.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the Opening and Making a New Public Road in Duck Creek Hundred, Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William Stevens, Tilghman Foxwell, Edward Beck, William Buck, and Enoch Spruance, five judicious and impartial freeholders of Kent county, be and they are hereby authorized to go

Commissioners appointed.

CONCERNING ROADS

upon, view, and lay out, over and upon the lands lying in the line thereof, a new public road in Duck Creek hundred, Kent county, (provided they deem the said road necessary for public convenience), beginning at a certain gum tree, a corner for or lying between the lands of Solomon S. Hollett, Jacob Hurlock, deceased, and John A. Jackson, and running thence nearly an east course upon the line between the heirs of Jacob Hurlock and said Jackson, and also upon the line between the heirs of James Conner, deceased, and said heirs of Hurlock, and to terminate at some point on the Smyrna road between the lands now of Charles Dulin and lands of Wesley Stevens. The said commissioners shall employ a surveyor to survey and plot the said road, and also chain-carriers if they determine said road should be opened, showing the courses and distances thereof, which said survey and plot shall be returned by the said freeholders to the Levy Court of Kent county, who shall cause the same to be filed and recorded among the records of the said court, and the original, and also the record thereof, or a duly certified copy of either, shall be evidence; the return of the said freeholders shall be signed by them, or a majority, if all do not agree, and shall state the costs of making said road, and the damages (if any), to the several owners of the land through which said road is laid out, which costs and damages the said Levy Court may, provided said court accept said road, pay (as in other cases), and also the expenses of executing this act, the fees pertaining to which service shall be the same as in cases of laying out public roads by order of the Court of General Sessions of the Peace. Before entering upon the discharge of the duties created by this act the said freeholders, surveyor and chain-carriers shall be sworn or affirmed, as is usual in other cases of laying out new public roads, and certificate or certificates of that fact shall be made part of the aforesaid return as an appendage thereto.

Location.

Commissioners to employ Surveyor to survey and plot road.

Plot, where returned.

Return of Freeholders to be signed.

What to state.

Freeholders and Surveyor to be sworn.

SECTION 2. *And be it further enacted,* That ten days written notice of the day on which the authority given by this act will be exercised shall be given to each owner of lands through or upon the line of which the aforesaid road will run, and the proceedings hereunder shall not be valid unless this provision is faithfully complied with. The return shall show such compliance, but may be contradicted. If any owner is absent from this State, notice for him may be left at the dwelling-house upon his premises, or, if there be none, may be fastened securely to some conspicuous object on the land; if he be a minor, notice may be given to the person with whom he resides, if he have no guardian, otherwise to the guardian.

Notice to owners of lands.

Notice to absent owner.

Minor owner

Passed at Dover, February 20, 1867.

CONCERNING ROADS.

CHAPTER 219.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Milford Hundred, Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Curtis S. Watson, Alfred T. A. Torbert, James H. Bell, Henry B. Fiddeman, and Thomas Wallace, of Milford hundred, be and they are hereby appointed commissioners to go upon and lay out a public road in Milford hundred aforesaid, and if they deem it proper, call to their assistance a surveyor and chain-carriers—beginning in the public road leading from Milford to Frederica, nearly opposite an old road leading to the new wharf; thence about north eighty-four degrees west across land of Richard H. Phelps, as now staked off by the said Phelps for the purpose of a public road, to land of J. De Wale, the same course continued across the said De Wale land to the eastern end of a lane through land of Seneca E. Malone; thence westerly through said lane and road now opened, to land of John S. Cummins; thence westwardly through a lane and road now opened through said Cummins' land to land of John McNair; thence westwardly through land of the said McNair, upon an old road through the same out to the public road leading from Milford to Joseph O. McColley's mills—and shall cause a plot of said road to be made, representing the courses and distances thereof, and shall assess any damages which may accrue to the owner or owners of the lands through which the said public road shall pass, taking into consideration all the circumstances of benefit, as well as injury, which will accrue to each of the owners, and the probable cost of opening said road.

Commissioners appointed.

Location.

Plot.

Compensation.

Cost.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the said commissioners shall cause the said plot, together with their proceedings in the premises, to be returned under their hands, or a majority of them, to the Clerk of the Peace in and for Kent county, to be by him laid before the Levy Court of said county; and the said Levy Court may adopt and establish the said road so as aforesaid laid out and returned to them, and when

Plot and return of proceedings to be laid before Levy Court of Kent county

When adopted by Levy Court to be public road.

so adopted the same shall be deemed and taken to be a public road, and the laws of this State applicable to public roads in Kent county are hereby extended to and shall apply to said road.

Commissioners and Surveyor to be sworn.

SECTION 3. *And be it further enacted by the authority aforesaid,* That the said commissioners, together with the surveyor employed by them shall, before performing the duties herein assigned, be severally sworn or affirmed to perform the duties incumbent upon them under this act, faithfully and impartially, according to the best of their skill and judgment, and the said commissioners to receive one dollar for each day they may be engaged in said duties, and the surveyor to receive such an allowance for his services as the said Levy Court may see proper to make.

Compensation.

Vacancy, how filled.

SECTION 4. *Be it further enacted by the authority aforesaid,* That in case of vacancy from any cause in the number of commissioners appointed by this act, before they respectively perform their duties hereinbefore assigned them, the Associate Judge of the Superior Court, residing in Kent county aforesaid, shall have power to fill it by the appointment of another person, or other persons, as necessity may require, who shall be subject to the same obligations and duties which are herein enjoined upon his or their predecessor or predecessors.

Passed at Dover, February 25, 1867.

CHAPTER 220.

CHANGE OF PUBLIC ROAD.

An Act to authorize John Anthony to Change and Straighten a Public Road in Duck Creek Hundred, Kent County, and State of Delaware.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

J. Anthony authorized to straighten public road.

SECTION 1. That John Anthony be and he is hereby authorized and empowered to alter and straighten that portion of the public road leading from Smyrna to Kenton, where the same passes

through the lands of said John Anthony, beginning at a corner for lands late of Daniel Cummins, deceased, and said John Anthony, thence through said Anthony's land until it intersects the said road from Smyrna to Kenton. Where

SECTION 2. *And be it further enacted,* That the said John Anthony shall lay out and make the said road of the width required by law, and put the same in good order at his own charge and expense for public travel, and when the said road is so straightened, completed, and put in good order for public travel it shall be a public road, and it shall be lawful for the said John Anthony to vacate and enclose such portion of the old road as is rendered useless by the said change, and in any proceeding against him for so doing he may give this act in evidence under the general issue as his sufficient justification.

Width of road. Expenses, how borne. To be public road. Part of old road to be vacated. Act evidence under general issue.

Passed at Dover, February 25, 1867.

CHAPTER 221.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Mispillion Hundred, in Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Reuben Ross, Ferdinand Baynard, Robert Raughley, Charles Williamson and Charles M. Adams be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a new public road in Mispillion Hundred, in the County of Kent, beginning at the mouth of the private road leading up to the dwelling-house on Zebulon Hopkins' farm, now in tenure of Zebulon H. Thomas, on the public road leading from Adamsville to Vernon, at or near the

Commissioners appointed. Location.

road gate of the Rev'd William M. Warner's farm, now in tenure of Benjamin Fountain, negro, and running from thence with said private road on a south-easterly course through woodland of Doctor John E. Lobstein, and through lands of the said Zebulon Hopkins, passing to the east of the aforesaid dwelling-house to the "Great Marshy Hope Branch Ditch," thence crossing said ditch and running about the same course through land now owned by Richard Fisher, known as the Vaughn Jump Farm, to lands of James Porter, and from thence running an easterly course through lands of said Porter to the westernmost end of a lane known as "William Williams' Long Lane" on the public road leading from Todd's Chapel to Jester's Cross Roads at the south-west corner of land of William W. Seeders; and if they, or a majority of them, shall determine that there is need of such new public road, they shall, with the assistance of some skillful surveyor, to be selected by them, lay out such new public road as they shall deem proper, having respect to the nature of the ground, the shortness of distance, and all circumstances of public convenience, and shall cause a plot thereof to be made, representing the courses and distances thereof, with notes of the most remarkable places and of the wood-lands, cleared lands and improvements by or through which the same shall pass, and they shall assess the damages of every owner of said lands and improvements by reason of the laying out of said road, taking into consideration all the circumstances of benefit, as well as injury [which] will accrue to each of said owners; and they shall make a computation of the costs of opening and making said road, bridges and causeways included, setting down the several items of said costs, and, if a road be laid out, shall, in their return, set forth a description of said road, and their determination that there is need of the same for public convenience, and shall annex to their said return the aforementioned plot.

Surveyor to be selected to lay out new road.

Plot.

Damages of owners of lands.

Costs.

Return of commissioners.

Plot and return to be laid before Levy Court of Kent Co.

SECTION 2. *And be it further enacted*, That the plot and return so to be made as aforesaid, by the said commissioners, shall be returned, immediately upon the completion thereof, to the Clerk of the Peace in and for Kent county, to be by him laid before the Levy Court of said county, and the said Levy Court may establish said road as a public road or highway, and may settle and pay such damages as may have been assessed by said commissioners to the persons severally entitled, and when said road shall have been so established as a public road by the Levy Court of Kent county the same shall be and remain subject to the same regulations and laws as other public roads in said county.

Damages may be paid by Levy Court.

SECTION 3. The said commissioners and surveyor, before entering upon the performance of their respective duties under this

act, shall be sworn or affirmed to perform the same according to the best of their skill and judgment respectively, which oath or affirmation may be administered by any officer qualified to administer oaths in said county, or either of said commissioners may administer the same to any other of said commissioners, or the surveyor. The acts of a majority of said commissioners shall be as valid as if concurred in by all of them; and in case of a vacancy or vacancies, from any cause, another or others may be appointed commissioner or commissioners by a judge of this State.

Commissioners and Surveyor to be sworn.

Oath administered by whom.

Acts of majority valid.

Vacancies.

SECTION 4. *And be it further enacted,* That a reasonable compensation for their services under this act shall be allowed and paid the said commissioners and surveyor by the Levy Court of Kent County.

Compensation.

Passed at Dover, February 26, 1867.

CHAPTER 222.

PUBLIC ROAD ESTABLISHED.

An Act to establish a Public Road in Brandywine Hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the private road in Brandywine hundred, New Castle county, known as the Cherry Island Marsh Road, (now called Vandever Avenue, beginning at the Wilmington and Philadelphia Turnpike in the Village of Brandywine, and ending at the northeasterly side of Thirteenth street in the City of Wilmington,) is hereby established and declared to be a public road or highway, and the said road shall, after the passage of this act, be maintained and kept in order in the same manner and shall be subject to the same regulations as other public roads in New Castle county.

Cherry Island Marsh road, or Vandever Avenue declared to be public road.

How kept up

Passed at Dover, March 7, 1867.

CONCERNING ROADS.

CHAPTER 223.

PUBLIC ROAD ESTABLISHED.

An Act to establish a Public Road in Brandywine Hundred.

Cherry Island Marsh road declared to be public road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the private road in Brandywine hundred, New Castle county, known as the Cherry Island Marsh road, beginning at the junction of two county roads (one ending at the Wilmington and Philadelphia turnpike, near Shellpot bridge, the other ending at the Wilmington and Philadelphia turnpike on Shellpot hill), and ending at Egner's Station on the Philadelphia, Wilmington, and Baltimore railroad, is hereby established and declared to be a public road or highway, and the said road shall, after the passage of this act, be maintained and kept in order in the same manner, and shall be subject to the same regulations as other public roads in New Castle county.

How to be maintained.

Passed at Dover, March 7, 1867.

CHAPTER 224.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the opening of a new Public Road in Mispillion Hundred, Kent County.

Freeholders appointed to lay out new road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Abner Harrington, John Booth, William A. Redden, William L. Masten [and] Henry N. Clarke, five judicious and impartial freeholders, be and they are hereby authorized to go upon, view,

CONCERNING ROADS.

and lay out, over and upon the lands in the line thereof, a new public road in Mispillion hundred, Kent county aforesaid, (provided they deem the said road necessary for public convenience,) beginning at a point in the public road leading from Milford to Harrington, and through lands of James L. Walcott, and at a turn of said road north-east of a bridge, and running in a straight line to a boundary for lands of Pemberton Clifton and Nimrod Harrington, thence with the division line of said Clifton and Harrington to the road known as the Frederica road, thence with the lane between James H. Vickory and Nimrod Harrington, the said road to run ten feet on James H. Vickory's and Ezekiel Fleming's lands to the Delaware Railroad, thence with the line of Dr. C. C. Powell and Benjamin T. Fleming, the said Fleming agrees that the said road may run over on his land ten feet with the Parsonage lot to the Felton and Harrington road. The said freeholders shall employ a surveyor to survey and plot the said road, and also chain-carriers, if they determine said road should be opened, showing the courses and distances thereof; which said survey and plot shall be returned to the Levy Court of Kent County, who shall cause the same to be filed and recorded among the records of said court, and the original and also the records thereof, or a duly certified copy of either, shall be evidence. The return of the said freeholders shall be signed by them, or a majority, if all do not agree, and shall state the costs of opening and making said road, and the damages (if any) to the several owners of the land through which said road is laid out, which costs and damages the said Levy Court shall pay, (as in other cases,) and also all the expenses of executing this act; the fees pertaining to which service shall be the same as in other cases of laying out public roads by order of the Court of General Sessions of the Peace. Before entering upon the discharge of the duties created by this act, the said freeholders, surveyor and chain-carriers shall be sworn or affirmed as is usual in other cases of laying out new public roads, and certificate or certificates of that fact shall be made part of the aforesaid return as an appendage thereto.

Location.

To employ Surveyor and Chain-carriers.

Plot.

Return to Levy Court of Kent Co.

Original, or certified copy to be evidence.

Costs and damages.

Fees.

Freeholders, Surveyor and Chain-carriers to be sworn.

SECTION 2. *And be it further enacted,* That ten days written notice of the day on which the authority given by this act will be exercised shall be given to each owner of lands through or upon the line of which the aforesaid road will run, and proceedings hereunder shall not be valid unless this provision is faithfully complied with. The return shall have [show] such compliance but may be contradicted. If any owner is absent from the State, notice for him may be left at the dwelling-house upon his premises, or if there be none, may be fastened securely to some con-

Notice to owners of lands.

Notice to absent owner.

To minor owner.

spicuous object on the land. If he be a minor, notice may be given to the person with whom he resides, if he have no guardian, or otherwise to the guardian.

Road not to be opened until accepted by Levy Court.

SECTION 3.* *Provided however*, That the road hereby authorized shall not be opened nor established, nor any damages paid to land owners until the said road has been accepted by the aforesaid Levy Court, and appropriation made for opening and making the same for public use.

Passed at Dover, March 8, 1867.

* So in enrolled bill.

CHAPTER 225.

REPAIR OF PUBLIC ROAD.

An Act with Reference to the Repair of the Public Road in Kent County over Kersey's Mill-dam, and for other purposes.

Preamble.

WHEREAS the public road leading from Canterbury to Frederica, over the mill-dam of the mill-pond of John S. Kersey's mill, in Murderkill hundred, in Kent county, has been obstructed, and travel upon the same entirely suspended by the breaking of said mill-dam, and now no travel by the citizens of this State can be had along the ancient route between those towns: AND WHEREAS the evil of such a state of things is public, and requires public redress, therefore,

J. S. Kersey authorized to make new public road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That John S. Kersey, of Murderkill hundred, in Kent county, be and he is hereby authorized to open and make, on and along the line indicated by red scores on the plot exhibited with the petition of Edward Lord and others, upon which this act is founded, a new public road as part of the aforesaid Canterbury and Frederica

road, and so to raise the same at such place as shall be sufficient to form another dam for his aforesaid mill-pond; or the said Kersey may repair the aforesaid obstruction in the said public road, and may widen the broken dam, if necessary, so as to facilitate public travel by the old route. The expense attending the exercise of the authority given by the premises shall be borne as follows, viz: Such part thereof as shall be necessary to enable the County of Kent to repair the aforesaid road, or make a new and sufficient one, by said county, and the residue by said John S. Kersey; the superintendence of the making the said new road, or the repair and widening of the old one, to be in the Levy Court of Kent county, who may exercise it by an overseer or agent: *Provided always, however,* That before any steps shall be taken by said Kersey, in virtue of the power hereby conferred, the Levy Court aforesaid shall indicate their preference of the mode of making the aforesaid road according to one or the other of the aforesaid plans; and this preference shall be made and expressed upon the record of said Court at their present session.

Repairs, how to be made.

Expenses, how borne.

Levy Court to have superintendence.

Levy Court to indicate preference of plan.

SECTION 2. *And be it further enacted,* That to provide a mode of ascertaining the expense referred to in the foregoing section, John W. Hall, William Townsend, Thomas P. Lacy, Thomas B. Coursey, and Thomas P. Reynolds be and they are hereby appointed and commissioned to determine the same, and their judgment shall be conclusive upon both the county of Kent and the said John S. Kersey.

Commissioners appointed to determine expense.

Conclusive.

SECTION 3. *And be it further enacted,* That this shall be a public act.

Public act.

Passed at Dover, March 8, 1867.

CHAPTER 226.

CHANGE OF PUBLIC ROAD.

An Act to authorize Rev. William Warner and Garretson Saulsbury to Straighten a Public Road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Rev. William Warner and Garretson Saulsbury be and they are hereby authorized and empowered to straighten that portion of

Rev. Wm. Warner and Garretson Saulsbury to straighten public road.

the public road leading from Marshy Hope Bridge towards Burrsville, running through their lands, by opening a new road from a point in said road near the corner of the enclosed lands of the said William Warner, and to run from thence in a straight line through lands of said William Warner and on the line between his lands and lands of said Garretson Saulsbury until it intersects the aforesaid public road leading from Marshy Hope Bridge to Burrsville, where the same is intersected by the road leading from Gum Island.

How to straighten.

Expenses, how borne.

SECTION 2. *Be it further enacted,* That the said William Warner and the said Garretson Saulsbury shall open and put in good order the alteration in said road hereby authorized, at their own expense, and after the same shall have been opened to public travel for a period of six months, the alteration so made and opened to public use shall be deemed a part of the public road, and that part of the old road superseded thereby shall be vacated, and it shall and may be lawful for the said William Warner and the said Garretson Saulsbury to enclose the parts of said road so vacated passing through their respective lands.

To be public road.

Part of old road vacated

May be enclosed.

Passed at Dover, March 12, 1867.

CHAPTER 227.

CHANGE OF PUBLIC ROAD.

An Act to authorize Horace Spruance to Change and Straighten a Public Road in Duck Creek Hundred, Kent County, Delaware.

Horace Spruance authorized to straighten public road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Horace Spruance, of Duck Creek hundred, in Kent county, be and he is hereby authorized and empowered to alter and straighten that portion of the public road leading from the Alley road to Salisbury, in said hundred, and through the lands of said Horace Spruance, beginning at a stake in said public road, corner for

Where.

land of Mrs. Casperson and said Horace Spruance, and running thence eastwardly until it intersects again the said public road at or near a stake, a corner for lands of E. J. Golt and Horace Spruance.

SECTION 2. *And be it further enacted,* That the said Horace Spruance shall lay out and make the said road of the width required by law, and put the same in good order for public travel, and when the said road is completed the said Horace Spruance shall give notice thereof in writing to the Levy Court of Kent county at its next session thereafter, and thereupon the said road shall become a public road and common highway, and may be treated as such by the Levy Court as aforesaid; and the said Levy Court may make such allowance to the said Horace Spruance for the same as they may deem right and proper.

Width.

Notice of completion to Levy Court.

Allowance.

SECTION 3. *And be it further enacted,* That after the said road shall have been laid out and opened to public travel, and accepted by the Levy Court of said county, it shall and may be lawful for the said Horace Spruance to vacate and enclose such portion of the old road as is rendered useless by the said change, and in any proceeding against him for so doing he may give this act in evidence under the general issue as his sufficient justification.

Part of old road to be vacated.

Act to be evidence under general issue.

SECTION 4. *And be it further enacted,* That this act shall be deemed and taken to be a public act.

Public act.

Passed at Dover, March 12, 1867.

CHAPTER 228.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a New Public Road in Murderkill Hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Samuel B. Cooper, James G. Longfellow, Ezekiel C. Frazier,

Commissioners appointed.

CONCERNING ROADS.

Elijah Caldwell and Alexander Dill be and they are hereby appointed commissioners and authorized and empowered to go upon and view the premises, and if, in their judgment, or the judgment of a majority of them, there is need of a new public road to start at a point in the Horse Pen Drain road, where the lands of Uriah Sipple and lands of Thomas D. Cubbage unite, near the dwelling-house of Jacob B. Kemp, and to run through lands of Thomas D. Cubbage, Uriah Sipple, Mary Sipple, Robert J. Reynolds, Benjamin L. Reed, Ezekiel C. Meredith and John G. Reed to the Felton road near the dwelling-house of said John G. Reed, they or a majority of them are hereby authorized and empowered to lay out and locate the same, and may employ some skillful surveyor to survey and plot the road so by them laid out and located.

Location.

To employ surveyor.

Plot.

SECTION 2. *Be it further enacted as aforesaid,* That the commissioners shall cause a plot of the road which they may lay out under the authority of this act, showing the courses and distances of the same, to be made and returned to the office of the Clerk of the Peace in and for Kent county, and shall submit therewith an estimate of the probable cost of opening and bridging said road, and their award of damages which every person will sustain through whose lands said road will pass. The Clerk of the Peace aforesaid shall lay the plot and estimate so made and returned before the Levy Court of Kent county at its next meeting after the same is returned, and if said Levy Court shall adopt said road so as aforesaid laid out, they may make such allowances for the opening and maintaining the same as they may deem proper. The road so as aforesaid to be laid out shall, from the time of its adoption by the Levy Court aforesaid, be deemed a public road.

Where to be returned.

Estimate of costs.

Award of damages.

Plot and estimate to be laid before Levy Court of Kent Co.

Allowances for opening and maintaining.

Public road.

SECTION 3. *Be it further enacted as aforesaid,* That the commissioners, before entering upon the duties hereinbefore mentioned, shall be severally sworn or affirmed to perform the duties imposed upon them by this act, faithfully and impartially, according to the best of their skill and judgment. A majority of them may act, and they may administer to each other the oath or affirmation herein required. They shall receive for their services under this act the same fees that are allowed to commissioners appointed under an order of court for like service, and the allowance or award of the commissioners of damages to the persons through whose lands said road may pass, as well as the fees of the commissioners and the proper charges of the surveyor by them employed, shall be paid by the county.

Commissioners to be sworn.

Majority may act.

Oath, by whom administered.

Fees and award of damages to be paid by county.

Passed at Dover, March 8, 1867.

CONCERNING ROADS.

CHAPTER 229.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the Opening and Making a New Public Road in Mispillion Hundred, Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Moses Harrington, Peter Calloway of Peter, Lewellyn Tharp, William H. Powell, and Alexander Johnson, five judicious and impartial freeholders of Kent county, be and they are hereby authorized to go upon, view, and lay out, over and upon the lands in the line thereof, a new public road in Mispillion hundred, Kent county aforesaid, (provided they deem the said road necessary for public convenience), beginning at a point at or near a bend in an old public road, at the eastern side of Clement A. Harrington's farm, and running from thence as straight as practicable to some point on the old Hammondtown road, between a bridge above the west end of a long straight reach of said road and where the Farmington road connects with said Hammondtown road, through lands of said Clement A. Harrington and others. The said freeholders shall employ a surveyor to survey and plot the said road, and also chain carriers, if they determine said road should be opened, showing the courses and distances thereof, which said survey and plot shall be returned to the Levy Court of Kent county, who shall cause the same to be filed and recorded among the records of said court, and the original and also the record thereof, or a duly certified copy of either, shall be evidence. The return of the said freeholders shall be signed by them, or a majority, if all do not agree, and shall state the cost of making said road and the damage (if any) to the several owners of the land through which said road is laid out, which costs and damages the said Levy Court shall pay (as in other cases) and also all the expenses of executing this act, the fees pertaining to which service shall be the same as in other cases of laying out public roads by order of the Court of General Sessions of the Peace. Before entering upon the discharge of the duties created by this act the said freeholders, surveyor and chain carriers shall be sworn or affirmed, as is usual in other cases of laying out new

Freeholders appointed.
Location.
Surveyor and Chain-carriers.
Survey and plot, where returned.
To be evidence.
Costs and damages.
Fees.
Freeholders, &c., to be sworn.

Certificate of oath.

public roads, and certificate or certificates of that fact shall be made part of the aforesaid return as an appendage thereto.

Notice to owners of lands.

SECTION 2. *And be it further enacted,* That ten days written notice of the day on which the authority given by this act will be exercised shall be given to each owner of lands through or upon the line of which the aforesaid road will run, and proceedings hereunder shall not be valid unless this provision is faithfully complied with. The return shall show such compliance, but may be contradicted. If any owner is absent from the State, notice for him may be left at the dwelling-house upon his premises, or if there be none, may be fastened securely to some conspicuous object on the land. If he is a minor, notice may be given to the person with whom he resides, if he have no guardian, or otherwise to the guardian.

Notice to absent owner.

To minor owner.

When to be opened and damages paid.

SECTION 3.* *Provided however,* That the road hereby authorized shall not be opened nor established, nor any damages paid to land owners until the said road has been accepted by the aforesaid Levy Court, and appropriation made for opening the same for public use.

Passed at Dover, March 12, 1867.

* So in enrolled bill.

CHAPTER 230.

CHANGE OF PUBLIC ROAD.

An Act to authorize Cyrus W. Cannon and Benton H. Gordy to change a certain Public Road on the line between Little Creek and Broad Creek Hundreds in Sussex County, Delaware.

C. W. Cannon and B. H. Gordy authorized to alter public road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Cyrus W. Cannon and Benton H. Gordy be and they are hereby authorized and empowered to alter and change the public road that is on the line between Little Creek and Broad Creek hund-

reds in Sussex county, that leads from the Pepper Box School House to the Bethesda M. E. Church, in the following manner, that is to say: beginning at or near the lands of Elijah H. Warrington and running northward crossing lands of the said Cyrus W. Cannon and Benton H. Gordy to a point on the aforesaid public road near the said Benton H. Gordy's dwelling-house. How.

SECTION 2. *Be it further enacted by the authority aforesaid,* That the said Cyrus W. Cannon and Benton H. Gordy shall open and make, at their own expense, a road, as above described, thirty feet wide, and put the same in good order, and shall make such bridges and causeways thereon as may be necessary. At whose expense. Width. Bridges and causeways.

SECTION 3. *And be it further enacted by the authority aforesaid,* That whenever the said road is opened, made, and put in good order and accepted by the Levy Court of Sussex county, then and from thenceforth the said road shall be a public road, and kept up at the public expense as other public roads in said county, and under the same laws and regulations, and then the said Cyrus W. Cannon and Benton H. Gordy may enclose such portion of the old road as is rendered useless by such change, each one to enclose the part within his own lines or boundaries. To be public road. Part of old road may be enclosed.

Passed at Dover, March 12, 1867.

CHAPTER 231.

CHANGE OF PUBLIC ROAD.

12 Vol. 631.
SEC. 1. Road as now opened to be public road.
SEC. 1. Part of old road vacated.
Inconsistent parts of former act repealed.

A Supplement to an act entitled, "An Act to change the location and straighten a certain Public Road hereinafter mentioned." 12 vol. 631.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the contemplated change of the road referred to in "An act to change the location and straighten a certain public road hereinafter mentioned," passed at Dover, March 16, 1865, as now opened, made and traveled by the public, is hereby declared to be the public road, and the part of the old road rendered useless by the said change is hereby vacated; anything contained to the contrary in the act to which this is a supplement is hereby repealed. Public road. Part of old road vacated.

Passed at Dover, March 13, 1867.

CONCERNING ROADS.

CHAPTER 232.

PUBLIC ROAD AUTHORIZED.

An Act appointing Commissioners to lay out a new Public Road in Kent County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Commissioners appointed.

SECTION 1. That Josiah Wolcott, Josiah Marvel, Henry Vinyard, George McCaulley and David Marvel be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a public road to begin at a point on a new public road called the "Willis road," near William Morgan's residence, and from thence running along and with the line between land of the said Morgan and land of Nathaniel B. Johnson and with an old road running by where William Marvel now resides, thence crossing the lands of the said William Marvel which he purchased of Doctor James R. Mitchell, thence running along and with the division line between land of the said James R. Mitchell and land of John H. Johnson to the old public road leading from Williamsville to Dover; and if they, or a majority of them, shall determine that there is need of such a road, they shall, with the assistance of some skillful surveyor to be by them selected, lay out such new public road as they may deem proper, having respect to the nature of the ground, shortness of distance, and all circumstances of public convenience, and shall cause a plot thereof to be made, representing the courses and distances thereof, with notes of the most remarkable places, and of the woodland, cleared land and improvements by and through which the same shall pass, and they shall assess the damages of every owner of said lands and improvements by reason of the laying out of said road, taking into consideration all the circumstances of benefit as well as injury which will accrue to each of the said owners, and they shall make a computation of the costs of opening and making said road and making the bridges and causeways thereon, setting down the several items of said cost, and if a road shall be laid out shall, in their return to be made to the Clerk of the Peace in and for Kent county, set forth a description of said road, and their determination that

Location.

To employ surveyor.

Plot.

Damages.

Computation of costs.

Return.

there is need of the same for public convenience, and shall annex to their said return the plot as aforesaid.

SECTION 2. The plot and return so to be made as aforesaid by the said commissioners shall be returned to the Clerk of the Peace in and for Kent county aforesaid, to be by him laid before the Levy Court of said county, and the said Levy Court may adopt said road as a public road or highway and settle such damages as may have been assessed, and when said road shall have been adopted as a public road by the said Levy Court the same shall be and remain subject to the same regulations and laws as other public roads in said county.

Plot and return to be laid before Levy Court.

Levy Court may adopt.

SECTION 3. The said commissioners and surveyor, before performing their respective duties under this act, shall be sworn or affirmed to perform the same according to the best of their judgment and skill respectively, which oath may be administered by either of said commissioners or by any public officer qualified to administer oaths. The acts of a majority of said commissioners shall be as valid as if concurred in by all of them. In case of a vacancy or vacancies another or others may be appointed commissioner or commissioners by any judge of this State. The fee of the commissioners, surveyor and chain-carriers shall be the same as provided by law for such services in case of laying out public roads and to be paid in like manner. The Levy Court aforesaid shall tax the surveyor's fees for the map and return.

Commissioners and Surveyor to be sworn.

By whom.

Acts of majority valid.

Vacancies.

Fees.

Surveyor's fees.

Passed at Dover, March 14, 1867.

CHAPTER 233.

CHANGE OF PUBLIC ROAD.

An Act to authorize John W. Conaway to alter and straighten a certain Public Road in Nanticoke Hundred, Sussex County, at his own expense.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That John W. Conaway be and he is hereby authorized and empowered to alter and straighten that portion of the public road lead-

J. W. Conaway authorized to straighten public road.

How to straighten.

ing from James' Mill, and passing through lands and near the residence of the said John W. Conaway, and intersecting the road leading from Spicer's Mill to Georgetown, beginning at the angle of the first mentioned road, at or near the residence of the said John W. Conaway, and running thence a straight line until it intersects the said Spicer's Mill and Georgetown road.

Width.

At whose expense.

Levy Court may adopt.

Part of old road may be vacated.

SECTION 2. *And be it further enacted by the authority aforesaid,* That when the said road is opened of the width of thirty feet, and put in good order for public travel, at the expense of the said John W. Conaway, it may be lawful for the Levy Court of Sussex county to accept and adopt the same as a public road, and when so accepted and adopted, it shall be lawful, and the said John W. Conaway is hereby authorized to vacate and enclose that portion of the said old road rendered useless and unnecessary by the opening of the said new road.

Passed at Dover, March 14, 1867.

CHAPTER 234.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the Opening and Making a new Public Road in Mispillion Hundred, Kent County.

Commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Josiah Wolcott, John Booth, William Sapp, William Wix and William M. Harrington, five judicious and impartial freeholders of Kent county, be and they are hereby appointed commissioners and authorized and empowered to go upon and view the premises, and if, in their judgment, or the judgment of a majority of them, there is need of a new public road in Mispillion hundred, commencing at Masten's school house and running

Location.

west across lands of William L. Masten; thence across lands of William H. Masten up to his barn or near by, thence a northwest course across lands of the said William H. Masten and lands of Samuel S. Harrington and wood lands of Thomas Brown to the mouth of the new road leading to Samuel Harrington's, they, or a majority of them, are hereby authorized and empowered to lay out and locate the same, and may employ some skillful surveyor to survey and plot the road so by them laid out and located.

To employ Surveyor.

SECTION 2. *Be it further enacted as aforesaid,* That the commissioners shall cause a plot of the road which they may lay out under the authority of this act, showing the courses and distances of the same, to be made and returned to the office of the Clerk of the Peace in and for Kent county, and shall submit therewith an estimate of the probable costs of opening and bridging said road and their award of damages which every person will sustain through whose lands said road will pass. The Clerk of the Peace aforesaid shall lay the plot and estimate so made and returned before the Levy Court of Kent county, at its next meeting after the same is returned, and if said Levy Court shall adopt said road so as aforesaid laid out they may make such allowance for the opening and maintaining the same as they may deem proper. The road so as aforesaid to be laid out shall, from the time of its adoption by the Levy Court aforesaid, be deemed a public road.

Plot. Where to be returned. Costs and damages. Plot and estimate to be laid before Levy Court. Allowances. Public road.

SECTION 3. *Be it further enacted as aforesaid,* That the commissioners and surveyor, before entering upon the duties hereinbefore mentioned, shall be severally sworn or affirmed to perform the duties imposed upon them by this act faithfully and impartially, according to the best of their skill and judgment; a majority of them may act, and they may administer to each other the oath or affirmation herein required. In case of vacancy or vacancies another or others may be appointed commissioner or commissioners by any judge of the State or by a justice of the peace in said county. They shall receive for their service under this act the same fees that are allowed to commissioners appointed under an order of court for like service, and the allowance or award of the commissioners of damages to persons through whose lands said road may pass, as well as the fees of the commissioners and the proper charges of the surveyor by them employed, shall be paid by the county.

Commissioners and Surveyor to be sworn. Majority may act. Oath, by whom administered. Fees. Damages, fees, &c., how paid.

Passed at Dover, March 14, 1867.

CONCERNING ROADS.

CHAPTER 235.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Cedar Creek Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Nathaniel H. Johnson, Thomas Stayton, Joshua Truitt, George Russell and Joseph M. Davis be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a new public road beginning at or near a corner of lands of Joshua Webb and William B. Walls, in Cedar Creek hundred, and Sussex county, on the public road leading from Milford to Bridgeville, and running a north-easterly direction through lands of the said Joshua Webb and William B. Walls to lands of William Miller and Isaac R. Jester, thence with the line of said lands to "Bowman's Branch," across said branch through lands of Henry Austin to School House No. 78, thence with the line of lands of the said Henry Austin and Alexander Johnson to lands of Col. Abel S. Small and Alexander Hare, thence to James P. Tatman's mill; and if the said commissioners, or a majority of them, determine that there is need of a new public road as above mentioned, then they shall, with the assistance of some skillful surveyor, to be by them employed, lay out such public road, and shall cause a plot of said road to be made, representing the courses and distances thereof, and shall assess any damages which may accrue to the owners [of lands] through which said road may pass, taking into consideration all circumstances of advantage as well as injury resulting to such owners, and shall make a computation of the costs of opening and making said public road and making the bridges and causeways thereon, if any, setting down the several items of said costs, and shall in their return set forth a description of the said road, and their belief that there is need of the same for public convenience, and shall annex to their return the aforementioned plot.

Commissioners appointed.

Location.

To employ Surveyor.

To assess damages.

Computation of costs,

Return, what to state.

SECTION 2. *And be it further enacted as aforesaid,* That the plot and return so to be made as aforesaid, shall be returned by the commissioners, or a majority of them, to the Clerk of the

Plot and return to be laid before Levy Court.

Peace in and for Sussex county, to be by him laid before the Levy Court of said county, and the damages assessed being paid by the parties particularly interested therein, the Levy Court aforesaid may adopt the same as a public road, and may make such appropriations as they may deem proper for opening the same and keeping it in repair.

Damages, by whom paid, Levy Court may adopt and make appropriations.

SECTION 3. *And be it further enacted as aforesaid,* That the commissioners aforesaid, and the surveyor to be by them employed, shall, before entering on the duties herein required of them, be severally sworn or affirmed to perform the duties imposed by this act faithfully and impartially, according to the best of their skill and judgment. They shall receive for their services under this act such compensation as the said Levy Court may allow.

Commissioners and Surveyor to be sworn.

Compensation.

SECTION 4. *Be it further enacted as aforesaid,* That this act shall be deemed and taken to be a public act.

Public act.

Passed at Dover, March 14, 1867.

CHAPTER 236.

CHANGE OF PUBLIC ROAD.

An Act to enable Martin F. Allaband to straighten and put in good order a Public Road on his own land at his own expense.

WHEREAS the present public road leading from Allaband's Mill to the Alms-house of Kent county is very crooked and inconvenient to fence, as well as making the traveling distance to the public greater than it need be if straightened; AND WHEREAS the straightening of said road would place it on other land of the said Martin F. Allaband which is much better for the bed of a road than the present location, and at the same time conform the enclosures of the said Allaband to straight and convenient lines instead of the present crooked and unsightly lines; therefore,

Preamble.

CONCERNING ROADS.

Martin F. Allaband authorized to straighten public road at his own expense.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Martin F. Allaband be and he is hereby authorized and empowered, at his own proper cost and charges, to straighten that portion of the public road leading from his mill to the Alms-house of Kent county, so as to conform it to the convenient enclosure of his lands, provided the same shall not prejudice the public in the use of the road so to be straightened. And when the road aforesaid shall be straightened as provided for by this act, and put in good traveling order, it shall and may be lawful for the said Martin F. Allaband to call upon a Levy Court Commissioner of the hundred in which he resides to examine and inspect the same, and if, on such inspection, said road, as straightened, shall be by him approved as to location, width, &c., it shall then be lawful for the said Martin F. Allaband to enclose and use the old road supplied by the new road so as aforesaid laid out.

To be inspected by L. C. Commissioner.

If approved, old road may be enclosed.

Report to Levy Court.

SECTION 2. *And be it further enacted as aforesaid,* That it shall be the duty of the Levy Court Commissioner, who shall be called to inspect said road as provided for in the first section of this bill, to make report of the same to the next meeting of the Levy Court of Kent county, and thenceforth the same shall be deemed to be a public road in lieu of the road now in use, and shall be worked and kept in repair as other public roads of the county are now worked and kept in repair.

Public road.

Passed at Dover, March 19, 1867.

CHAPTER 237.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Milford Hundred.

Commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William Hall, Andrew J. Maloney, George Thomas, John A.

CONCERNING ROADS.

Bickel and James D. Sipple be and they are hereby appointed commissioners to go upon the premises and view the same, and, if in their judgment the public convenience would be promoted thereby, to lay out a new public road in Milford hundred, in Kent county, beginning at the public road near Levi Mousley, and from thence running with a road excepted in a deed from John Hickman to the said Mousley, since deeded to Benjamin Henderson, and from thence to run a south-eastwardly course through lands of Peter F. Causey, lands of Curtis S. Watson, and lands of Mary B. Cain, and thence in a southwardly direction through other lands of the said Mary B. Cain to the landing on Milford Creek known as Cain's Landing; and the said commissioners, or a majority of them, shall have authority, and they are hereby empowered and required to cause the road so by them laid out to be surveyed and plotted, giving the courses and distances thereof, and they, or a majority of them, shall assess any damages which will accrue to any person or persons through whose lands said road will pass by reason of the same, and shall estimate the costs of opening said road for public use and travel. Location. Plot. Damages. Costs.

SECTION 2. *Be it further enacted,* That said commissioners shall cause the map or plot of said road so by them laid out, with their assessment of damages and estimate of costs aforesaid, to be returned to the Clerk of the Peace of Kent county, who shall lay the same before the Levy Court of said county at its next meeting after said return shall be made, and if the said Levy Court approve of said road so laid out, they may make such allowances as will be necessary for opening and maintaining the same as a public road, and from such approval of said Levy Court the same shall be deemed a public road. Plot, &c., to be laid before Levy Court. If approved may be opened and maintained. Public road.

SECTION 3. *Be it further enacted,* That the commissioners, before entering upon their duties under this act, shall be severally sworn or affirmed to discharge their duties as commissioners with fidelity. Any of said commissioners may administer said oath or affirmation, and the act of a majority shall be valid in every particular. They shall receive the same compensation as is allowed to commissioners appointed under an order of court for like services. Commissioners to be sworn. By whom. Act of majority valid.

SECTION 4. *Be it further enacted,* That the commissioners aforesaid shall lay out the road hereby authorized to be laid out of the width of sixty feet from the outside fence of the said Mary Cain to the terminus thereof at Cain's Landing aforesaid. Width.

SECTION 5. *Be it further enacted,* That this act shall be deemed a public act. Public act.

Passed at Dover, March 19, 1867.

CONCERNING ROADS.

CHAPTER 238.

PUBLIC ROAD AUTHORIZED.

An Act authorizing the laying out a Public Road in Little Creek Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Joshua Hastings, Joseph G. White and John M. G. Elliott be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a new public road, commencing at a public road leading from Laurel to Salisbury, on lands of Isaac Hearn, thence across said Hearn's lands, land of Elihu Hastings and others, in a westerly direction, terminating at the depot lot at Delmar; and if the said commissioners, or a majority of them, determine that there is need of a new public road as above mentioned, then they shall, with the assistance of some skillful surveyor to be by them employed, lay out such public road, and shall cause a plot of said road to be made, representing the courses and distances thereof, and shall assess any damages which may accrue to the owners of the land through which said road may pass, taking into consideration all circumstances of advantage as well as injury resulting to such owners, and shall make a computation of the costs of opening and making said public road and making the bridges and causeways thereon, if any, setting down the several items of said costs, and shall, in their return, set forth a description of the said road and their determination that there is need of the same for public convenience, and shall annex to their return the aforementioned plot.

Commissioners appointed.

Location.

To employ Surveyor.

Plot.

Damages.

Costs.

Return, what to state.

SECTION 2. *And be it further enacted as aforesaid,* That the plot and return so to be made as aforesaid shall be returned by the commissioners, or a majority of them, to the Clerk of the Peace in and for Sussex county, to be by him laid before the Levy Court of said county, and the damages assessed being paid by the parties particularly interested therein, and the road being put in good order, the Levy Court aforesaid may adopt the same as a public road and may make such appropriations as they may deem proper for keeping it in repair.

Plot, &c., where returned.

Damages, how paid.

Levy Court may adopt.

CONCERNING ROADS.

SECTION 3. *Be it further enacted as aforesaid,* That the commissioners aforesaid, and the surveyor to be by them employed, shall, before entering on the duties herein required of them, be severally sworn or affirmed to perform the duties imposed by this act faithfully and impartially, according to the best of their skill and judgment. They shall receive for their services under this act such compensation as the said Levy Court may allow.

Commissioners and Surveyor to be sworn.

Compensation.

SECTION 4. *Be it further enacted as aforesaid,* That this act shall be deemed and taken to be a public act.

Public act.

Passed at Dover, March 19, 1867.

CHAPTER 239.

CHANGE OF PUBLIC ROAD.

SEC. 1. Jacob R. Jones authorized to straighten public road at his own expense. Where.

SEC. 2. When opened and accepted by Levy Court to be public road. Part of old road may be enclosed.

An Act to authorize Jacob R. Jones to straighten and change a certain Public Road on his own land in Broad Creek Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Jacob R. Jones be and he is hereby authorized and empowered to lay out, make, and open, at his own expense, on his own land, in Broad Creek hundred, in Sussex county, a road by beginning at or near the end of the Black Swamp road and running the same course thereof to the public road that leads from the M. E. Church to the old Green Branch Mill bridge in said hundred.

J. R. Jones authorized to straighten public road at his own expense.

SECTION 2. *Be it further enacted by the authority aforesaid,* That when the said road is laid out, made and opened the width required by law, put in good passable order and accepted by the Levy Court of Sussex county, then and from thenceforth the said road shall be a public road, and kept up and repaired as other public roads in the said county, and then the said Jacob R. Jones may enclose the old road on his land that is supplied by the new road.

When opened and accepted by Levy Court to be public road.

Part of old road may be enclosed.

Passed at Dover, March 19, 1867.

CONCERNING ROADS.

CHAPTER 240.

PUBLIC ROAD AUTHORIZED.

An Act authorizing the laying out a Public Road in Broad Creek Hundred, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Burton Cannon, Levin Hitch and William S. Phillips be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a new public road in Broad Creek hundred, in Sussex county, commencing at the public road that leads from Terrapin Hill to Bull's Mills, at a point at or near the end of Bull's mill-dam and running from thence southward, crossing land of George W. West and William Truitt, to the public road that leads from the Goose Nest Lane to the Trap Mill, at or near the end of the said Trap mill-dam; and if the said commissioners, or a majority of them, shall determine that there is need of a new public road as above described, then they shall, with the assistance of some skillful surveyor to be by them employed, lay out such public road twenty feet wide, and shall cause a plot thereof to be made representing the courses and distances of the said road, and shall assess the damages which may accrue to the owners of the land through which the said road passes, taking into consideration all circumstances of benefit as well as the injury resulting therefrom, and shall make computation of the costs of opening and making the said public road and of making the bridges and causeways thereon, setting down the several items of the said costs, and shall, in their return, set forth a description of the said road, and their determination that there is need of the same for public convenience, and annex the aforementioned plot to their return.

Commissioners appointed.

Location.

To employ Surveyor.

Plot.

Damages.

Costs.

Return, what to state.

SECTION 3. *Be it further enacted by the authority aforesaid,* That the said plot and return so to be made shall be returned by the said commissioners, or a majority of them, to the Clerk of the Peace in and for Sussex county, to be by him laid before the Levy Court of said county, and the damages assessed being paid by the persons particularly interested therein, the Levy Court aforesaid may adopt the said road as a public road, and may

Plot and return to be laid before Levy Court.

Damages, by whom paid.

Levy Court may adopt, &c.

make such appropriations as they may deem proper for opening and making the same and keeping it in repair.

SECTION 3. *Be it further enacted by the authority aforesaid,* That the said commissioners, and the surveyor to be by them employed, shall, before entering on the duties imposed by this act, be severally sworn or affirmed to perform the duties imposed by this act faithfully and impartially according to the best of their skill and judgment respectively. They shall receive for their services such compensation as is allowed for like services in other cases. Commissioners and Surveyor to be sworn. Compensation.

SECTION 4. *And be it further enacted by the authority aforesaid,* That this act shall be deemed and taken to be a public act. Public act.

Passed at Dover, March 19, 1867.

CHAPTER 241.

CHANGE OF PUBLIC ROAD.

An Act to authorize Willard Richardson and David Scott to change the location of certain Public Roads upon their own land in Milford Hundred, Kent County, and to open other Public Roads in lieu thereof at their own expense.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Willard Richardson and David Scott be and they are hereby authorized to change the location of the public roads upon their own land in Milford hundred, Kent county, leading to the stopping place for the cars upon the Junction and Breakwater Railroad, and to open and make at their own proper charge and cost other public roads leading to said stopping place, better to facilitate the public travel thereto: *Provided,* That nothing herein contained shall authorize any change in the location of the public road leading from Williamsville to Dover, where the same crosses said land. W. Richardson and D. Scott authorized to change roads and make new roads. At whose expense. Proviso.

CONCERNING ROADS

Present roads not to be obstructed until new ones opened

When accepted by Levy Court, &c.

SECTION 2. *Be it further enacted,* That the said Richardson and Scott, nor either of them, shall obstruct or enclose the present public roads hereby authorized to be changed until the herein contemplated new roads are opened, made and prepared for the public use and travel to the place aforesaid; when so made and prepared and accepted by the Levy Court of Kent county then so much of the said old roads as are rendered useless by the opening of the contemplated new roads is hereby vacated and may be closed.

Survey and plot, what to state.

Where returned.

To be evidence.

SECTION 3. *Be it further enacted,* That the said Willard Richardson and David Scott shall cause a survey and plot to be made of the said roads, showing the courses, distances and width thereof, the parts of the old roads vacated, and the new roads opened, made and dedicated to the public use and travel, which plot shall be signed by the said Willard Richardson and David Scott, and by them returned to the Clerk of the Peace in and for Kent county and by said Clerk filed in his office. When so returned and filed the same shall be evidence of the fact that the said new roads are public roads, and the laws of this State applicable to public roads in Kent county are hereby extended to and shall apply to said new roads.

Passed at Dover, March 20, 1867.

CHAPTER 242.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out a Public Road in Dover Hundred, Kent County.

Commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William Slaughter, William Jones, William Virden, Thomas

CONCERNING ROADS.

Clements and Charles E. Scotten be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a public road in Dover hundred, Kent county, to begin on the public road leading from Solomon Sparks' to Smith's Cross-roads, at or near the mouth of a new public road leading from Lawrence Hartnett's to Thomas Marvel's, and from thence running a westerly course through lands of Lawrence Hartnett, lands of John Daily, lands of William Fell, lands of Daniel Downs and lands of J. Shepard Joslin to the State line between the States of Delaware and Maryland, at or near Halltown; and if they, or a majority of them, shall determine that there is need of such a road, they shall, with the assistance of some skillful surveyor to be by them selected, lay out such new public road as they may deem proper, having respect to the nature of the ground, shortness of distance, and all circumstances of public convenience, and shall cause a plot thereof to be made, representing the courses and distances thereof, with notes of the most remarkable places, and of the woodland, cleared land and improvements by and through which the same shall pass, and they shall assess the damages of every owner of said lands and improvements, by reason of the laying out of said road, taking into consideration all the circumstances of benefit as well as injury which will accrue to each of said owners, and they shall make a computation of the costs of opening and making said road, and making the bridges and causeways thereon, setting down the several items of said costs, and if a road shall be laid out, shall, in their return to be made to the Clerk of the Peace in and for Kent county, set forth a description of said road and their determination that there is need of the same for public convenience, and shall annex to their said return the plot as aforesaid.

Location.

To employ surveyor.

Plot.

Damages.

Costs.

Return, what to state.

SECTION 2. The plot and return so to be made as aforesaid by the said commissioners shall be returned to the Clerk of the Peace in and for Kent county aforesaid, to be by him laid before the Levy Court of said county, and the said Levy Court may adopt said road as a public road or highway, and settle such damages as may have been assessed, and when said road shall have been adopted as a public road by said Levy Court the same shall be and remain subject to the same regulations and laws as other public roads in said county.

Plot and return to be laid before Levy Court.

Levy Court may adopt and settle damages.

SECTION 3. The said commissioners and surveyor, before performing their respective duties under this act, shall be sworn or affirmed to perform the same according to the best of their judgment and skill respectively, which oath may be administered by either of said commissioners or any public officer qualified to

Commissioners and Surveyor to be sworn.

By whom.

Acts of majority valid.

Vacancies, how filled.

Fees.

Compensation to surveyor.

administer oaths. The acts of a majority of said commissioners shall be as valid as if concurred in by all of them. In case of a vacancy or vacancies another or others may be appointed commissioner or commissioners by any judge of this State or by any justice residing within said county. The fee of the commissioners, surveyor and chain-carriers shall be the same as provided by law for such services in case of laying out public roads and to be paid in like manner. The Levy Court aforesaid shall make and allow a proper compensation to the surveyor for his plot and return.

Passed at Dover, March 20, 1867.

CHAPTER 243.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the laying out of a Public Road in Kent County.

Commissioners appointed.

Location.

Rule of government for commissioners in laying out road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Henry Pratt of Nathan, John J. Nivison and Charles C. Babbitt be and they are hereby appointed commissioners and authorized and empowered, if in their judgment, or the judgment of a majority of them there is public need for the same, to cause to be surveyed and laid out a public road to begin at the road from Hazlettville to Dover, somewhere near the residence of James R. Powell, and from thence extending southwardly across lands of the said James R. Powell and lands of Henry Todd to the road leading from Allaband's Mill to the Almshouse of Kent county, at the present causeway across the south-west branch of said Allaband's mill-pond, and that all the rules and regulations now in force for laying out public roads in Kent county shall be deemed to extend to and apply in all respects as a rule of government for the commissioners herein named in laying out said road, if they shall decide that a new public road at the place above de-

scribed is necessary, except that instead of making their return of the survey and plot of said road to the Court of General Sessions of the Peace of Kent county they shall make said return directly to the Levy Court of Kent county at its next session after said survey and plot thereof shall have been made and signed by the commissioners herein named.

Return to Levy Court.

SECTION 2. *And be it enacted as aforesaid,* That if the Levy Court shall approve the same it shall become one of the public roads of Kent county, and shall be made and kept in order as other public roads of the said county are made and kept in order.

If Levy Court approve to be public road.

SECTION 3. *And be it enacted as aforesaid,* That if the commissioners named in the first section of this act shall lay out a new road at the place above designated they shall have full power and authority to declare so much of any other road now used vacated as shall be deemed by them to be supplied by the new road by them laid out, and they may, in their return, decide and award who may enclose the same after the road laid out by them shall be put in good traveling order.

If new road laid out part of other roads may be vacated.

May be enclosed.

Passed at Dover, March 20, 1867.

CHAPTER 244.

CHANGE OF PUBLIC ROAD.

An Act to authorize the straightening of a Public Road in Dagsboro' Hundred, Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Hetty A. Fooks, John M. Houston and Ann L. Hopkins, or any one of them, be and they are hereby authorized and empowered to straighten the public road in Dagsboro' hundred, in Sussex county, known as the "Brookfield road," where the same passes through their lands, at their own proper costs and charges, beginning at or near a road known as the "Swamp road," on the lands of said Hetty A. Fooks, and from thence running a straight

Public road authorized to be straightened.

At whose expense.

How to be straightened

line across lands of John M. Houston and Ann L. Hopkins to a point at or near a cross-roads connecting with the said "Brookfield road," and after the said alterations and changes shall have been made and opened to public travel the same shall be deemed and taken to be a part of the public road and shall be maintained and kept up as other public roads in said hundred, and that part of the old road thereby superceded shall be vacated and may be enclosed by the said Hetty A. Fooks, John M. Houston and Ann L. Hopkins, where it passes through their respective lands.

To be public road.

Part of old road vacated

Passed at Dover, March 20, 1867.

CHAPTER 245.

CONVEYANCE OF CERTAIN LANDS TO THE UNITED STATES AUTHORIZED.

*An Act authorizing the conveyance of certain Real Estate in New Castle County to the United States.**

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Clement Reeves and James B. Henry, both of New Castle county, are hereby authorized and empowered to convey to the United States a certain tract of land, situated in Red Lion hundred, in said county, upon which the United States has recently erected a fortification known as the "Ten Gun Battery," and also the road leading from said fortification to the Delaware and Chesapeake Canal.

C. Reeves and J. B. Henry authorized to convey to the U. S. certain tract of land.

SECTION 2. *And be it further enacted,* That jurisdiction over the said land and road purchased by the United States for the purposes aforesaid is hereby ceded to the United States: *Provided, nevertheless,* That all civil and criminal processes issued under the authority or this State shall continue to run into and be served and executed in and upon said tract of land and all parts thereof in the same manner as if the jurisdiction had not been granted as aforesaid.

Jurisdiction over the same ceded to the U. S.

Passed at Dover, January 30, 1867.

* Although not strictly bound to publish this act, yet from the general nature of the same, I have assumed the responsibility to do so.

CUSTIS W. WRIGHT, Secretary of State.

PAYMENT OF CLAIMS.

CHAPTER 246.

An Act for the Payment of Claims against the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be and is hereby authorized and directed to pay the following claims: State Treasurer authorized to pay claims.

To R. G. Ellegood, for making Auditor's Report, fifty dollars, in full to date. R. G. Ellegood, $50.00.

To B. Donoho, for attendance on Court of Errors and Appeals, &c., eighteen dollars, in full to date. B. Donoho, $18 00.

To S. C. Letherbury, for attendance on Court of Errors and Appeals, &c., fifteen dollars and thirty cents, in full to date. S. C. Letherbury, $15.30.

To James L. Smith, for repairs on State House, twenty-seven dollars and ninety cents, in full to date. J. L. Smith, $27.90.

To Andrew J. Wright, for rent of office for State Treasurer, fifty dollars, in full to date. A. J. Wright $50.00.

To Andrew Rash, for work done at State House, six dollars, in full to date. A. Rash, $6.00.

To William G. Whiteley, for fees as late Prothonotary, twenty-five dollars and fifty-three cents, in full to date. W. G. Whiteley, $25.53.

To Custis W. Wright, for publishing and indexing laws, &c., three hundred dollars, in full to date. C. W. Wright $300.00.

To William Whitaker, for expenses in arresting James H. Hicks, &c., one hundred and twenty-three dollars and thirty-six cents, in full to date. W. Whitaker, $123.36.

To Edward D. Porter, for services as Adjutant-General of the State of Delaware, three hundred and seventy-five dollars, in full to date. E. D. Porter $375.00.

To Henry Eckel, for advertising, fifty-six dollars, in full to date. H. Eckel, $56.00.

To C. P. Johnson, for advertising, ninety-four dollars and twenty-seven cents, in full to date. C. P. Johnson, $94.27.

To Joseph H. Hoffecker, for advertising, twenty-five dollars, in full to date. J. H. Hoffecker, $25.00.

To George W. Vernon, for advertising, fifty dollars, in full to date. G. W. Vernon, $50.00.

To James Kirk, for advertising, eighty-five dollars and eighty cents, in full to date. J. Kirk, $85.83.

To James Kirk, for printing part of House Journal for 1866, seventy-three dollars, in full to date. J. Kirk, $73.00.

PAYMENT OF CLAIMS.

C.P.Wetherby, $300.00. To C. P. Wetherby, for indexing and superintending printing of Senate Journal of the adjourned sessions of June, 1865, and January, 1866, three hundred dollars, in full to date.

F. Croydon, $37.00. To F. Croydon, for repairs on furniture of Senate and House of Representatives, thirty-seven dollars, in full to date.

Z. L. Butler, $30.00. To Zadock L. Butler, for services in fitting up Senate and House of Representatives, thirty dollars, in full to date.

D.F. Burton, $22.80. To D. F. Burton, (agent for Dover Gas Light Company,) for gas for Senate and House of Representatives, twenty-two dollars and eighty cents, in full to date.

Passed at Dover, March 22, 1867.

RESOLUTIONS.

CHAPTER 247.

Joint Resolution appointing a Joint Committee to wait on the Governor and inform him of the organization of the two Houses.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a committee of two on the part of the Senate be appointed to act jointly with a like committee on the part of the House, to wait on His Excellency, the Governor, and inform him that a quorum of both Houses of the Legislature are convened, duly organized, and are ready to receive any communication he may see proper to make.

Joint committee to inform the Governor of the organization of the Legislature.

Adopted at Dover, January 2, 1867.

CHAPTER 248.

Joint Resolution adjourning the General Assembly until Tuesday, the 8th instant, at 10 o'clock, A. M.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That when the two houses adjourn this day they will adjourn to meet on Tuesday next, the eighth instant, at 10 o'clock, A. M.

Adjournment of Legislature.

Adoped at Dover, January 2, 1867.

RESOLUTIONS.

CHAPTER 249.

Joint Resolution appointing Joint Committee on Rules for the Government of the two Houses.

Joint Committee on rules for the government of the two Houses.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That there be appointed a joint committee of two on the part of the Senate and three on the part of the House to prepare joint rules for government of the intercourse between the two Houses.

Adopted at Dover, January 8, 1867.

CHAPTER 250.

Joint Resolution convening the General Assembly in Joint Meeting to publish the Vote for Governor.

Joint meeting of Senate and House of Rep. to open and publish election returns of Governor.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the members of the Senate and members of the House of Representatives assemble in the Hall of the House of Representatives at 11 o'clock, A. M., on Thursday next, the 10th inst., to be present at the opening and publishing, according to the Constitution of this State, of the returns of the elections holden in the several counties of the State on the Tuesday next after the first Monday in November last, for Governor, and that two tellers be appointed, to wit: one on the part of the Senate and one on the part of the House of Representatives, to make a list of the votes as the same shall be published from said returns.

Two certificates of election to be made.

Resolved, That upon opening and publishing the returns of the said elections by the Speaker of the Senate, in the presence of both Houses of the Legislature assembled as aforesaid, two certificates shall be made according to the following form, to wit:

Form.

DELAWARE, *ss.* Be it known that the General Assembly, having met at Dover, James Ponder, Speaker of the Senate, on the —— day of January, in the year of our Lord one thousand eight hundred and sixty-seven, did open and publish, in the presence of the members of the Senate and of the House of Repre-

sentatives, according to the Constitution of the said State, the returns of the elections holden in the several counties of the said State on the Tuesday next after the first Monday in November last, for Governor, and by said returns it appears that ——— was, on the Tuesday next after the first Monday in November last, duly chosen Governor of the State of Delaware according to the Constitution and Laws of the State, to hold said office of Governor during four years from the third Tuesday of January instant, agreeably to the Constitution.

Adopted at Dover, January 8, 1867.

CHAPTER 251.

Joint Resolution appointing a Committee to wait upon the Governor at his Inauguration.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a joint committee be appointed, consisting of two members on the part of the Senate, and three members on the part of the House, to inform the Governor elect that the General Assembly would attend him in his inauguration at 12 o'clock, M., on Tuesday, the 15th inst.

Joint Committee to inform the Governor that the General Assembly will attend his inauguration.

Adopted at Dover, January 10, 1867.

CHAPTER 252.

Joint Resolution for a Joint Committee to settle with the State Treasurer.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a committee of three members on the part of the House of Representatives and two members on the part of the Senate be appointed to examine the accounts of the State Treasurer, and make a report to the General Assembly on or before the fifth day of February next.

Committee to examine accounts of State Treasurer.

Adopted at Dover, January 10, 1867.

RESOLUTIONS.

CHAPTER 253.

Joint Resolution in relation to the certificates of the election of Gove Saulsbury, Esq., Governor.

Certificates of the election of Governor, where deposited.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That one of the certificates of the election of Gove Saulsbury, Governor, yesterday made, be deposited by the Speaker of the Senate in the office for the recording of deeds in and for Kent county, and there be recorded by the Recorder of Deeds for said county, and that the other of said certificates be transmitted by the Speaker of the Senate to the Governor elect.

Adopted at Dover, January 11, 1867.

CHAPTER 254.

Joint Resolution appointing Robert Lamden Auditor of Accounts.

Robt. Lamden appointed Auditor.

Resolved, by the House of Representatives of the State of Delaware (by and with the concurrence of the Senate,) That Robert Lamden be and he is hereby appointed Auditor of Accounts.

Adopted at Dover, February 7, 1867.

CHAPTER 255.

Joint Resolution appointing William J. Clarke State Treasurer.

W. J. Clarke appointed State Treasurer.

Resolved, by the House of Representatives of the State of Delaware (by and with the concurrence of the Senate,) That William J. Clarke be and he is hereby appointed State Treasurer.

Adopted at Dover, February 7, 1867.

RESOLUTIONS.

CHAPTER 256.

Joint Resolutions relative to the Proposed Amendments to the Constitution of the United States.

WHEREAS in accordance with the provisions of the fifth article of the Constitution of the United States, the Senate and House of Representatives of the United States in Congress assembled, by a resolution passed at the first session of the Thirty-Ninth Congress, begun and held on the first Monday of December, A. D. 1865, have proposed a certain article of amendment to the said Constitution for the consideration of the Legislatures of the several States, which said proposed article of amendment is in the following words and figures, to wit: Preamble.

"SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or

given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

"SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payments of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations and claims shall be illegal and void.

"SECTION 5. Congress shall have power to enforce by appropriate legislation the provisions of this article."

AND WHEREAS the Governor of this State has submitted the said proposed amendment to this General Assembly;

AND WHEREAS this General Assembly believes that the adoption of the said proposed amendment to the Constitution would be a breach of faith implied between the States at the time of the ratification of the Constitution; would deprive one section of this country of rights and privileges which have been guaranteed to them by the Constitution; would foster and excite bitter and unkindly relations between the citizens of different sections of the country; would delay, if not altogether prevent, a restoration of a perfect union between the States, and would be destructive of the ends and purposes intended to be secured by the adoption of the Constitution; therefore,

Amendment to Constitution of U. S. rejected.

Be it Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the members of this General Assembly hereby declare their unqualified disapproval of said proposed amendment to the Constitution of the United States, and hereby refuse to adopt and ratify the same.

Authenticated copy to be transmitted to Secretary of State of U. S.

Resolved, further, That a duly authenticated copy of the foregoing preamble and resolution be transmitted by the Secretary of State of this State to the Secretary of State of the United States.

Adopted at Dover, February 7, 1867.

RESOLUTIONS.

CHAPTER 257.

Joint Resolutions approving late decisions of the Supreme Court of the United States.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That this General Assembly regard with the utmost satisfaction the recent decisions of the Supreme Court of the United States against the constitutionality of test oaths and of military commissions for the trial of persons not in the land or naval forces or in the militia, and they hail with pleasure the evidence thus furnished of the respect of that august tribunal for the sacred charter of our liberties and bond of union, and that no approval by a partisan majority of assumptions of power has been able to induce the judges to swerve from the path of integrity that was so faithfully trod by their predecessors.

Approval of decisions of U. S. Supreme Court against constitutionality of test oaths.

Resolved, That a copy of these resolutions, duly certified, be sent by the Governor to the Attorney General of the United States, with a request that he present them to the Supreme Court.

Copy to be sent to Att'y Gen. of U. S.

Adopted at Dover, February 13, 1867.

CHAPTER 258.

Joint Resolution appointing Bank Directors..

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the following persons be and they are hereby appointed Directors of the Farmers' Bank of the State of Delaware, and its branches, on the part of the State, agreeably to the act of the General Assembly in such case made and provided: For the principal bank at Dover, Edward Ridgley, John W. Hall, Samuel Hargadine. For the branch at Wilmington, J. Morton Poole, William Bright, Francis Barry. For the branch at New Castle, James Truss, Allen V. Lesley, Samuel Townsend. For the branch at Georgetown, William D. Waples, J. Turpin Moore, Loxley R. Jacobs.

Bank Directors appointed.

Adopted at Dover, February 13, 1867.

RESOLUTIONS.

CHAPTER 259.

Joint Resolution to Destroy cetrain Exchanged State Bonds.

Preamble.

WHEREAS by a joint resolution adopted the sixteenth day of February, A. D. 1865, the General Assembly appointed a committee to destroy certain exchanged bonds: AND WHEREAS the said committee failed to perform the duty imposed upon them, and said bonds are still in existence; therefore,

Committee to destroy certain State bonds.

Be it Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That James Williams and Isaac S. Elliott on the part of the Senate, and William D. Waples, Henry Pratt and Andrew Eliason on the part of the House of Representatives, be and they are hereby appointed a joint committee for the purpose of burning or destroying the exchanged bonds returned to the General Assembly by the State Treasurer, and now deposited in the Farmers' Bank at Dover, which said bonds were ordered to be destroyed under the provisions of an act of the General Assembly passed at Dover, October 27th, 1864, and that said committee make report to the present session of the Legislature.

Adopted at Dover, February 21, 1867.

CHAPTER 260.

Joint Resolution requiring the Serqeants-at-Arms to raise the National Flag upon the State House during the Sessions of the General Assembly.

National flag to be raised over State House.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall be the duty of the Sergeants-at-Arms of the two Houses to raise the National flag upon the State House during the sessions of the Legislature.

Adopted at Dover, February 25, 1867.

RESOLUTIONS.

CHAPTER 261.

Joint Resolution of Adjournment.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That when the two houses adjourn this morning they will adjourn to meet on Monday afternoon next, the 4th of March, at 3 o'clock, P. M. Adjournment of Legislature.

Adopted at Dover, February 26, 1867.

CHAPTER 262.

Joint Resolution appointing Committee to settle with State Treasurer and Auditor of Accounts.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Messrs. Bewley and Paynter, on the part of the Senate, and Messrs. Davis, Reed and Allderdice, on the part of the House of Representatives, be and they are hereby appointed a committee on the part of this General Assembly, whose duty it shall be to meet at Dover, on [the] third Tuesday of January, A. D. 1868, for the purpose of settling the account of the State Treasurer, and receiving the report of the Auditor of Accounts for the current year. Committee to settle with State Treasurer and Auditor.

Resolved, That it shall be the duty of the said committee, after their settlement with the State Treasurer as aforesaid, to cause a statement of such settlement, under their hands, or the hands of a majority of them, to be published in two of the newspapers printed in the State for the space of one month from the time [of] effecting the same. Statement to be made. Publication.

Resolved, That the said committee have full power and authority to audit the account of the Clerk of the Senate, and [of] the Clerk of the House of Representatives, for superintending the printing of the Journals of the houses of the Legislature during the present session and for making indexes thereto; also the account of the Secretary of State, for superintending the printing of the acts of the present session and for making index to the same, and make such allowances for said services as they may think just and proper, which said allowances shall be paid by Accounts of Clerks. Secretary of State. Allowances.

the State Treasurer upon orders drawn by the chairman of the said committee in favor of said Clerks and Secretary of State respectively.

Compensation of committee.

Resolved, That said committee shall receive the same compensation as is by law allowed to the members of the General Assembly, to be paid by the State Treasurer upon orders drawn by the chairman of said committee, out of any money in the hands of the said State Treasurer not otherwise appropriated; and the chairman of said committee shall have authority to draw orders for the incidental expenses arising out of the session of said committee, to be paid in like manner.

Adopted at Dover, March 7, 1867.

CHAPTER 263.

Joint Resolution adjourning the two Houses of the General Assembly sine die.

Adjournment of Legislature.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the two Houses of this General Assembly will adjourn *sine die* on Saturday, March sixteenth, 1867.

Adopted at Dover, March 8, 1867.

CHAPTER 264.

Joint Resolution in relation to receiving no more New Business.

New business not to be received.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That no new business will be received by the Legislature after Tuesday, the twelfth day of March, instant.

Adopted at Dover, March 11, 1867.

RESOLUTIONS.

CHAPTER 265.

Joint Resolutions in relation to the State Library.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Charles P. Wetherby be and he is hereby appointed to take charge of the State Library and of the books and papers of the Senate and House of Representatives, with the same powers and duties as now belong to and are enjoined upon the State Librarian.

C. P. Wetherby appointed to take charge of Library, &c.

Resolved further, That for the performance of said duties and services the said Charles P. Wetherby shall receive annually the sum of one hundred dollars, for which he is hereby authorized to draw quarterly upon the State Treasurer; the said duties to commence on the day of the adoption hereof.

Compensation.

Adopted at Dover, March 12, 1867.

CHAPTER 266.

Joint Resolution appointing Edward K. Smith to purchase coal, wood, &c.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Edward K. Smith be and he is hereby authorized and requested to purchase the necessary coal, wood, lights and stationery for the next session of the Legislature, and the State Treasurer is hereby directed to pay to the order of the said Edward K. Smith the sum of one hundred dollars to enable him to carry into effect the provisions of this resolution, and the said Edward K. Smith is hereby directed to present his account and vouchers to the Legislature at its next session for allowance.

E. K. Smith to furnish stationery to next Legislature.

Adopted at Dover, March 13, 1867.

RESOLUTIONS.

CHAPTER 267.

Joint Resolution rescinding the Joint Resolution of Adjournment and extending the session.

Resolution of adjournment rescinded.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the joint resolution of adjournment on the 16th instant be and the same hereby is rescinded, and that the General Assembly will adjourn *sine die* on Friday, the 22d instant.

Adopted at Dover, March 14, 1867.

CHAPTER 268.

Joint Resolutions appointing Zadock L. Butler to take charge of the Senate Chamber and the Hall of the House of Representatives.

Z. L. Butler to take charge of chambers.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Zadock L. Butler be and he is hereby appointed to take charge of the Senate Chamber and the Hall of the House of Representatives of the State of Delaware, and to take care of the furniture belonging to the same.

Duty.

Resolved, further, That it shall be the duty of the said Zadock L. Butler to pay strict attention to the proper airing of the said rooms, and to keep the furniture belonging to the same in the best condition within his power, and to strictly enforce the rules for the regulation of the same.

Compensation.

Resolved, further, That for the faithful performance of the duties above specified the State Treasurer shall pay the said Zadock L. Butler the sum of forty dollars, and the duties of the said Zadock L. Butler shall commence on the day succeeding the day of adjournment of this General Assembly and continue until the next regular session.

Adopted at Dover, March 19, 1867.

RESOLUTIONS.

CHAPTER 269.

Joint Resolution in relation to the Duties of the State Treasurer.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized and directed to employ able counsel to assist the Attorney-General of this State in any suit against any National Bank doing business in this State that shall continue to refuse payment of the tax assessed to such National Bank, or the stockholders thereof, under and by virtue of the laws of this State.

State Treasurer authorized to employ counsel to assist Att'y General in certain cases

Adopted at Dover, March 19, 1867.

CHAPTER 270.

Joint Resolution compensating Edward Ridgely, Chancellor ad litem.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the sum of six hundred dollars be and the same is hereby appropriated out of any moneys in the treasury of the State as a compensation to Edward Ridgely, for his services as Chancellor *ad litem* in two cases, one of Thomas Pickering vs. Charles H. B. Day and William Whitaker, Sheriff, the other of Daniel L. McBride vs. the same defendants; and that the State Treasurer be and he is hereby directed to pay to the said Edward Ridgely the said sum of six hundred dollars when and as soon as he shall have rendered his decisions in said cases, and not before.

Allowance to Edward Ridgely for services as Chancellor *ad litem.*

Adopted at Dover, March 20, 1867.

RESOLUTIONS.

CHAPTER 271.

Joint Resolution appended to the Report of the Committee to whom was referred that portion of the Governor's Message relating to the Defences of the State.

Governor requested to communicate with Secretary of War in relation to arms.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Governor of the State of Delaware be and is hereby requested to communicate with the Secretary of War of the United States in reference to the return of the arms of which the said State was deprived during the late war by the said military authorities, and to devise such further measures to secure the return of the same, or an equal number, with such additions as may be necessary for the protection of the citizens of the said State, if they can be obtained, or such measures as in his judgment may be necessary and proper in the premises.

Adopted at Dover, March 21, 1867.

CHAPTER 272.

Joint Resolution directing the State Treasurer to pay the Members of this General Assembly in gold, or its equivalent in currency.

Preamble.

WHEREAS in consequence of the great depreciation in the value of the currency of the country, and the prices of labor, provisions, and produce of every kind, together with the rates of travel and taxes having advanced to more than double what they were when we had a uniform currency based upon specie:

AND WHEREAS Section 15 of Chapter 29 of the Revised Statutes of this State directs that "the State Treasurer shall not receive in payment of taxes anything but gold and silver coin or the notes of specie-paying banks," it is therefore evident that the fees fixed by law for the members of the General Assembly was upon a specie basis, wherefore if the members are paid in a depreciated currency the true intent and meaning of the law will not be fulfilled; therefore,

Per diem to be paid in gold or silver.

Be it Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby directed to pay to the members of this General Assembly their *per diem* and mileage in gold or silver coin, or its equivalent in currency.

Adopted at Dover, March 21, 1867.

RESOLUTIONS.

CHAPTER 273.

Joint Resolution appropriating Six Hundred Dollars to pay the Contingent Expenses of the office of Secretary of State.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the sum of six hundred dollars be and the same is hereby appropriated and made payable to Custis W. Wright, Secretary of State, to defray the contingent expenses of his office for the present and ensuing year, and that he be required to present his accounts and vouchers to the General Assembly of this State, at its next session, for settlement.

Contingent expenses of Secretary of State.

Adopted at Dover, March 21, 1867.

CHAPTER 274.

Joint Resolution to secure the Publication of the Second Volume of "Houston's Delaware Reports."

WHEREAS the provision made by law for the publication of the reports of the adjudged cases in the several courts of this State is inadequate to secure the object; AND WHEREAS it is important to the proper administration of justice that the precedents established by our courts should be accessable not only to those engaged in the interpretation and execution of the laws, but to all the officers of said courts, and to the people of the State; therefore,

Preamble.

Be it Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in addition to the price paid for the one hundred copies of the Reports of Judicial Decisions, required by law to be deposited in the State Library by the Associate Judge of the Superior Court, resident in Kent county, and *ex-officio* State Reporter, the further sum of five hundred dollars is hereby appropriated to meet the increased expense of publishing the second volume of "Houston's Delaware Reports;" and upon the certificate of the Secretary of State that one hundred copies of said volume have been deposited in the State Library, the Governor shall draw an order on the State

$500 appropriated to meet increased expenses of publishing second Vol. of Houston's Reports.

RESOLUTIONS.

Treasurer in favor of the Hon. John W. Houston, Associate Judge of the Superior Court, resident in Kent county, for the sum of one thousand dollars, being the aggregate of the sums appropriated by Chapter 27 of the Revised Code and by this resolution.

Adopted at Dover, March 22, 1867.

CHAPTER 275.

Joint Resolution directing Frederick Croydon to make certain repairs to the roof and cupola of the State House.

Cupola of State House to be repaired.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Frederick Croydon be and he is hereby directed to make the needful repairs to the roof and cupola of the State House to prevent the same from passing water through to the ceilings of the halls below, and that he return his vouchers of the necessary expenses to the Legislative Committee appointed to examine the State Treasurer's and Auditor's accounts, who are hereby authorized to audit and direct the payment of the same.

Adopted at Dover, March 22, 1867.

CHAPTER 276.

Joint Resolution authorizing the State Treasurer to Borrow Money.

State Treasurer authorized to borrow money.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized to borrow any sum or sums not exceeding, in the whole amount, twenty thousand

dollars, to be applied and used towards the payment of the current expenses of the State until the next session of the Legisture, and that the faith of the State be and the same is hereby pledged for the payment of the said sum or sums of money, not exceeding in the whole the amount aforesaid, with interest at six per centum, and that the Treasurer shall receive, for his services, one-eighth of one per centum out of the money so obtained.

Adopted at Dover, March 22, 1867.

CHAPTER 277.

Joint Resolution in relation to the House Journal of 1865 *and* 1866.

State Treasurer authorized to pay for House Journal of 1865 and 1866, when completed.

Resolved, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized to pay to J. Frank Hazel the sum of three hundred and fifty dollars ($350.00) upon the production to him of a properly printed and indexed copy of the Journal of the House of Representatives of this State for the sessions of 1865 and 1866, with a certiffcate from the publisher thereof that 300 copies of the same have been printed and published in the manner and style prescribed by Section 4 of Chapter 4 of the Revised Code.

Adopted at Dover, March 22, 1867.

TITLES OF ACTS OF INCORPORATION

Excluded from Publication by Act of Feb. 17, 1866.

CHAPTER 278.

An Act to incorporate "The Smyrna Seminary."

Passed at Dover, January 18, 1867.

CHAPTER 279.

An Act to incorporate the Delaware State Normal University.

Passed at Dover, January 23, 1867.

CHAPTER 280.

An Act to incorporate the Mechanics' and Workingmen's Building and Loan Association, of New Castle.

Passed at Dover, January 23, 1867.

CHAPTER 281.

An Act to incorporate the Mechanics' Loan Association, of Wilmington.

Passed at Dover, January 24, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 282.

An Act to amend and reenact the act entitled, "An Act to incorporate the Gravelly Run Marsh Company," passed at Dover, February 5, 1866.

Passed at Dover, January 24, 1867.

CHAPTER 283.

An Act to incorporate the Wilmington Loan Assocation.

Passed at Dover, January 30, 1867.

CHAPTER 284.

An Act to incorporate the Milford Ice Company.

Passed at Dover, January 31, 1867.

CHAPTER 285.

An Act to incorporate the Stella Lodge, No. 33, I. O. of O. F., Smyrna, Delaware.

Passed at Dover, February 1, 1867.

CHAPTER 286.

An Act to incorporate the Electrical Brake Company of America.

Passed at Dover, February 5, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 287.

An Act to incorporate the Hicks' Steam Engine Company of Delaware.
Passed at Dover, February 5, 1867.

CHAPTER 288.

An Act to incorporate the Wilmington Rolling Mill Company.
Passed at Dover, February 5, 1867.

CHAPTER 289.

An Act to incorporate the Felton Institute and Classical Seminary.
Passed at Dover, February 12, 1867.

CHAPTER 290.

An Act to incorporate the Haven Mills Manufacturing Company.
Passed at Dover, February 12, 1867.

CHAPTER 291.

An Act to promote the improvement of Farson's Branch in Kent County.
Passed at Dover, February 19, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 292.

An Act to incorporate National Lodge, No. 32, Independent Order of Odd Fellows, of St. Georges, Delaware.

Passed at Dover, February 19, 1867.

CHAPTER 293.

An Act to incorporate the Newark Building and Loan Association.

Passed at Dover, February 19, 1867.

CHAPTER 294.

An Act to incorporate the Dead Branch Ditch Company.

Passed at Dover, February 20, 1867.

CHAPTER 295.

An Act to incorporate "Hope Building and Loan Association," in the City of Wilmington.

Passed at Dover, February 21, 1867.

CHAPTER 296.

An Act to incorporate "The Middletown Building and Loan Association."

Passed at Dover, February 25, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 297.

An Act to incorporate the Middletown Hall Company, of Middletown, Delaware.

Passed at Dover, February 25, 1867.

CHAPTER 298.

An act to incorporate the Methodist Episcopal Cemetery of St. George's.

Passed at Dover, February 25, 1867.

CHAPTER 299.

An Act to incorporate Washington Lodge, No. 1, of the American Protestant Association of Delaware.

Passed at Dover, February 26, 1867.

CHAPTER 300.

An act to reincorporate the Farmers' Mutual Fire Insurance Company of the State of Delaware.

Passed at Dover, March 5, 1867.

CHAPTER 301.

An Act to incorporate Washington Council, No. 4, of the Order of United American Mechanics of the State of Delaware.

Passed at Dover, March 5, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 302.

An Act to incorporate the Dover Manufacturing and Canning Company.

Passed at Dover, March, 5, 1867.

CHAPTER 303.

An Act to incorporate the "Cooper Cemetery" of Murderkill Hundred, in Kent County.

Passed at Dover, March 5, 1867.

CHAPTER 304.

An Act to incorporate "The Harlan and Hollingsworth Company."

Passed at Dover, March 6, 1867.

CHAPTER 305.

An Act to incorporate the Wilmington Hotel Company.

Passed at Dover, March 7, 1867.

CHAPTER 306.

An Act to incorporate the Wilmington Steam Brick Manufacturing Company.

Passed at Dover, March 7, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 307.

An Act to incorporate the "Home Loan Association."

Passed at Dover, March 7, 1867.

CHAPTER 308.

An Act to incorporate "The Delaware Leather Manufacturing and Belting Company."

Passed at Dover, March 7, 1867.

CHAPTER 309.

An Act to incorporate "The Lobdell Car Wheel, Tire and Machine Company."

Passed at Dover, March 7, 1867.

CHAPTER 310.

An Act to incorporate the "Old Ferry Rolling Mill Company."

Passed at Dover March 7, 1867.

CHAPTER 311.

An Act to incorporate the "Farmers' Market Company," of New Castle county.

Passed at Dover, March 7, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 312.

An Act to incorporate the Newark Woolen Manufacturing Company.

Passed at Dover, March 7, 1867.

CHAPTER 313.

An act to incorporate the Watson Collegiate Institute, Milford, Delaware

Passed at Dover, March 8, 1867.

CHAPTER 314.

An Act to incorporate the Milford Neck Ditch Company.

Passed at Dover, March 8, 1867.

CHAPTER 315.

An Act to incorporate the New York and Baltimore Express Steamboat Company.

Passed at Dover, March 8, 1867.

CHAPTER 316.

An Act to incorporate the Philadelphia and Baltimore Union Steamboat Company.

Passed at Dover, March 11, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 317.

An Act to incorporate the Jordan Branch Ditch Company.

Passed at Dover, March 12, 1867.

CHAPTER 318.

An Act to incorporate the Dover Building and Loan Association.

Passed at Dover, March 12, 1867.

CHAPTER 319.

An Act to incorporate the "Smyrna Building and Loan Association," of the Town of Smyrna.

Passed at Dover, March 12, 1867.

CHAPTER 320.

An Act to incorporate the Diamond State Building and Loan Association of the Town of Smyrna.

Passed at Dover, March 13, 1867.

CHAPTER 321.

An Act to incorporate "The Diamond State Lime Burning Company."

Passed at Dover, March 13, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 322.

An Act to incorporate the Delaware Brick Manufacturing Company.

Passed at Dover, March 13, 1867.

CHAPTER 323.

An Act to incorporate "The Christiana Lodge, No. 7, of the Independent Order of Good Templars," of the State of Delaware, in the Village of Christiana.

Passed at Dover, March, 13, 1867.

CHAPTER 324.

An Act to incorporate the Nanticoke Building and Navigation Company.

Passed at Dover, March 13, 1867.

CHAPTER 325.

An act to incorporate the Delaware Trust Company.

Passed at Dover, March 14, 1867.

CHAPTER 326.

An Act supplemental to the act entitled, "An Act to incorporate the Cooper Cemetery, of Murderkill hundred, Kent county," passed at *Dover, March* 5, 1867.

Passed at Dover, March 14, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 327.

An Act to incorporate the Meredith Branch Ditch Company.

Passed at Dover, March 14, 1867.

CHAPTER 328.

An Act to incorporate the Hollywood Cemetery, of Harrington, Kent County.

Passed at Dover, March 19, 1867.

CHAPTER 329.

An Act to incorporate the Diamond State Loan Association.

Passed at Dover, March 19, 1867.

CHAPTER 330.

An Act to amend an act entitled, "An Act to incorporate the New Castle Building and Loan Association, of the Town of New Castle."

Passed at Dover, March 19, 1867.

CHAPTER 331.

A Supplement to the act passed March 17, 1865, entitled, "An Act to incorporate the Hudson's Branch Ditch Company."

Passed at Dover, March 19, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 332.

An Act to incorporate "The Diamond State Mutual Life Insurance Company."

Passed at Dover, March 19, 1867.

CHAPTER 333.

An Act to incorporate the Delaware Mutual Life Insurance Company.

Passed at Dover, March 20, 1867.

CHAPTER 334.

An Act to incorporate "The Morris Branch and Beaver Branch Banking Company," and for other purposes therein mentioned.

Passed at Dover, March 20, 1867.

CHAPTER 335.

An Act to revive, re-enact and amend the act entitled, "An Act to incorporate the Black Swamp Ditch Company," passed at Dover, February 10, 1841.

Passed at Dover, March 20, 1867.

CHAPTER 336.

An Act to incorporate the Delaware Boot and Shoe Manufacturing Company.

Passed at Dover, March, 21, 1867.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 337.

An Act to incorporate "The Kirkwood Building and Loan Association" in Red Lion Hundred, New Castle County.

Passed at Dover, March 21, 1867.

CHAPTER 338.

An Act to incorporate the Bright's and Haynes' Glades Ditch Company.

Passed at Dover, March 22, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 339.

An Act to divorce John Montgomery and Nancy R., his wife, from the bonds of matrimony.

Passed at Dover, January 22, 1867.

CHAPTER 340.

An Act to divoree Mary C. Houlston from her husband, William Houlston.

Passed at Dover, January 24, 1867.

CHAPTER 341.

An Act for the relief of Alfred Lee Cummins, minor child of Daniel Cummins, deceased.

Passed at Dover, January 29, 1867.

CHAPTER 342.

An Act to divorce Mary A. Dehorty.

Passed at Dover, January 31, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 343.

An Act to divorce Elizabeth J. Jackson from her husband, Abijah S. Jackson.

Passed at Dover, January 31, 1867.

CHAPTER 344.

An Act to divorce Hannah T. Doty from her husband, Edmund Doty.

Passed at Dover, February 6, 1867.

CHAPTER 345.

An Act to enable Mary A. Nichols, wife of James Nichols, a lunatic, to sell and convey certain real estate in the City of Wilmington.

Passed at Dover, February 6, 1867.

CHAPTER 346.

An Act authorizing the sale of the real estate late of Rev. Samuel T. Carpenter, deceased.

Passed at Dover, February 7, 1867.

CHAPTER 347.

An Act vesting the right of the State to certain escheated, personal and real estate in Henry Carter.

Passed at Dover, February 12, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 348.

An Act to divorce Elizabeth P. Waller from her husband, Levin E. Waller.

Passed at Dover, February 12, 1867.

CHAPTER 349.

An Act to divorce Mary O'Daniel from her husband, William O'Daniel.

Passed at Dover, February 12, 1867.

CHAPTER 350.

An Act to divorce James Lowe and his wife, Ann W. Lowe, from the bonds of matrimony.

Passed at Dover, February 12, 1867.

CHAPTER 351.

An Act to promote the benefit of the devisees and legatees under the will of Elizabeth Smith.

Passed at Dover, February 14, 1867.

CHAPTER 352.

An Act to divorce George W. Unruh and his wife, Margaret Unruh, from the bonds of matrimony.

Passed at Dover, February 14, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 353.

An Act to divorce Mattie E. McDonald from her husband, William McDonald.

Passed at Dover, February 15, 1867.

CHAPTER 354.

An Act vesting in Celia Boyles, widow of Joseph Boyles, and others, certain escheated real estate, late the property of Joseph Boyles, deceased.

Passed at Dover, February 20, 1867.

CHAPTER 355.

An act authorizing the sale of certain real estate in Duck Creek Hundred, Kent County, and State of Delaware.

Passed at Dover, February 21, 1867.

CHAPTER 356.

An act to authorize George W. Collins, of Sussex County. to locate certain lands in North-West Fork Hundred, in said County, and to complete his title to the same.

Passed at Dover, February 21, 1867.

CHAPTER 357.

An act to enable Casper Kendall, guardian of Mary Emma Kendall, to sell and convey certain real estate in the City of Wilmington.

Passed at Dover, February 25, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 358.

An Act to render valid the acknowledgment of a certain deed.

Passed at Dover, March 4, 1867.

CHAPTER 359.

An act to revive and reenact a private act entitled, "An Act to enable James W. Smith to locate certain vacant land situated in Broad Creek hundred, Sussex county, and to complete his title to the same," passed at Dover, February 18, 1863.

Passed at Dover, March 4, 1867.

CHAPTER 360.

An Act to enable Charles M. Adams to locate certain vacant lands in North-West Fork hundred, in Sussex county, and to complete his title to the same.

Passed at Dover, March 5, 1867.

CHAPTER 361.

An Act to authorize the sale of certain real estate in New Castle county, late of Elijah Hollingsworth, deceased.

Passed at Dover, March 6, 1867.

CHAPTER 362.

An Act authorizing John Williams to vacate a private road in Mispillion hundred, Kent county.

Passed at Dover, March 6, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 363.

An Act to supply an omission herein mentioned.

Passed at Dover, March 7, 1867.

CHAPTER 364.

An Act to divorce Catharine M. Crock (late Catharine M. Kemp) and her husband, Michael Crock, from the bonds of matrimony.

Passed at Dover, March 7, 1867.

CHAPTER 365.

An Act to authorize the sale of certain real estate in New Castle county, late of William Trucks, deceased.

Passed at Dover, March 12, 1867.

CHAPTER 366.

An Act to authorize the sale of certain real estate therein mentioned, devised by the will of John Pleasanton.

Passed at Dover, March 12, 1867.

CHAPTER 367.

An Act to divorce Joshua Scotten and Sarah E. Scotten, his wife, from the bonds of matrimony.

Passed at Dover, March 12, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 368.

An Act to divorce Rebecca Lilly from her husband, Henry Lilly.

Passed at Dover, March 13, 1867.

CHAPTER 369.

An Act to divorce Ann Long and Philip Long from the bonds of matrimony.

Passed at Dover, March 14, 1867.

CHAPTER 370.

An Act to divorce Martha A. Massey from her husband, Nathaniel Massey.

Passed at Dover March 14, 1867.

CHAPTER 371.

An Act to divorce Mary A. L. Outten and John O. Outten from the bonds of matrimony.

Passed at Dover, March 14, 1867.

CHAPTER 372.

An Act to revive and continue in force the act entitled, "An Act to enable Josiah W. Collins, John W. Short and Burton West to locate certain vacant lands in Broad Creek hundred, Sussex county, Delaware, and complete their title to the same," passed at Dover, February 18, 1851.

Passed at Dover, March 18, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 373.

An Act to revive an act authorizing the laying out and making a private road in Little Creek hundred, Sussex county, passed at Dover, January 25, 1866.

Passed at Dover, March 19, 1867.

CHAPTER 374.

An Act to divorce Annie D. Briant from her husband, Samuel Briant.

Passed at Dover, March 19, 1867.

CHAPTER 375.

An Act to divorce Rachel Lathrop from her husband, Joseph Lathrop.

Passed at Dover, March 19, 1867.

CHAPTER 376.

An Act to divorce Ida A. W. Poulson and her husband, William C. T. Poulson, from the bonds of matrimony.

Passed at Dover, March 19, 1867.

CHAPTER 377.

An Act to authorize the Chancellor to appoint a Trustee for Ethan A. Dixon.

Passed at Dover, March 20, 1867.

TITLES OF PRIVATE ACTS.

CHAPTER 378.

An Act to divorce Nathaniel Ingram from his wife, Ann Eliza Ingram.

Passed at Dover, March 21, 1867.

CHAPTER 379.

An Act to divorce Sallie E. Bates from her husband, Robert W. Bates.

Passed at Dover, March 21, 1867.

CHAPTER 380.

An Act to divorce George H. Bennett and Susan M., his wife, from the bonds of matrimony.

Passed at Dover, March 22, 1867.

CHAPTER 381.

An Act to divorce Robert M. Connery from the bonds of matrimony with Catharine Connery.

Passed at Dover, March 22, 1867.

SECRETARY'S OFFICE,
DOVER, October 1, 1867.

In obedience to directions of Chapter 4 of the Revised Code, entitled, "Of the passing and publication of Laws and of Journals," I have collated with and corrected by the original rolls now in this office, and caused to be published this edition of the Laws of the State of Delaware, passed by the General Assembly at the regular biennial session, commenced on Tuesday, the first day of January, A. D. 1867.

The words between brackets throughout the work are inserted to complete the sense or correct errors in the original rolls. Words and sentences noted with asterisks are printed as they appear on the rolls.

CUSTIS W. WRIGHT,
Secretary of State.

LAWS

OF THE

STATE OF DELAWARE,

PASSED AT A SESSION

OF THE

GENERAL ASSEMBLY,

COMMENCED AND HELD AT DOVER,

ON TUESDAY, THE FIFTH DAY OF JANUARY,

A. D. 1869,

AND OF THE

INDEPENDENCE OF THE UNITED STATES

THE NINETY-THIRD.

VOL. 13.---PART 3.

PUBLISHED BY AUTHORITY.

PRINTED AT THE DELAWAREAN OFFICE, DOVER,

1869.

LAWS OF THE STATE OF DELAWARE.

CHAPTER 382.

DIVISION LINE BETWEEN DELAWARE AND PENNSYLVANIA.

An Act to Settle and Determine the Dividing Line between this State and the Commonwealth of Pennsylvania.

WHEREAS it has been represented to this General Assembly that there is great doubt and uncertainty as to the true dividing line between this State and the Commonwealth of Pennsylvania, between the eastern line of the State of Maryland and the circular line of the State of Delaware, and the inhabitants along the said line have always held and recognized the southern line of the Commonwealth of Pennsylvania as extending until it intersects the said circular line of this State; Preamble.

AND WHEREAS the circular boundary line between this State and the Commonwealth of Pennsylvania has never been surveyed and marked since the separation of the three counties forming this State from the Province of Pennsylvania, and all knowledge of its location is in a great measure dependent upon vague and conflicting traditions; therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, and it is hereby enacted by the authority of the same,* That his excellency the Governor be, and he is hereby authorized to appoint two commissioners, to act in conjunction with like commissioners on the part of the Commonwealth of Pennsylvania, to settle, determine and locate the line between this State and the Common- Governor authorized to appoint Commissioners to locate a certain division line between Delaware and Penna.

wealth of Pennsylvania, by extending the southern line of the Commonwealth of Pennsylvania until it intersects the circular line of this State, and such line shall, with the approval of the Congress of the United States, be forever deemed and held the true boundary line of the said States.

Limits, how marked.

SECTION 2. That the said commissioners are hereby authorized and directed to place and erect at the point of intersection of the said extended line and the circular line of this State a stone or other suitable monument.

The Commissioners empowered to determine the circular line between said States and fix suitable marks.

SECTION 3. That the said commissioners shall also have power to survey and determine the circular line of boundary separating said States, from the point of intersection therewith of the line directed to be extended by the first section of this act to the river Delaware, and to fix suitable marks or monuments of stone, or other suitable material, thereupon, one quarter of a mile apart, upon the circular boundary, if the same can be conveniently placed, or at such other points and distances apart upon the said circular boundary as they may deem proper, whereby the line of boundary between the said States may hereafter be indicated; and when the line of boundary so surveyed and marked shall have been approved on the part of Delaware by the Governor thereof, and on the part of Pennsylvania in such manner as shall be determined by the legislature thereof, then the said line of boundary so surveyed, ascertained and marked shall thereafter be deemed and taken to be the dividing line of boundary between the States of Delaware and Pennsylvania.

The line, when approved, to be the boundary.

The Governor authorized to draw warrant to defray one-half of the expenses.

SECTION 4. That the Governor be and he is hereby authorized to draw his warrant on the State Treasurer for such sum or sums of money as may be required for the payment of the commissioners to be appointed as aforesaid, and for the defraying of the one-half (the other half to be paid by the State of Pennsylvania), of all the necessary expenses incurred in carrying this act into effect.

Passed at Dover, April 1, 1869.

CONCERNING LIMITS.

CHAPTER 383.

AN ADDITIONAL HUNDRED IN KENT COUNTY.

An Act to form a New Hundred in Kent County out of parts of Duck Creek and Little Creek Hundreds, to be called Kenton Hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That an additional or new hundred shall be and is hereby established and created in Kent county, for the purpose of holding the general and special elections, the election of assessors and inspectors, and for the appointment of constables and collectors, and for such other purposes as may be necessary to constitute the same a distinct and separate hundred, with all the rights which may properly appertain to it as such. The said new or additional hundred shall be called and known by the name of Kenton hundred, and shall include and embrace all that portion of Duck Creek hundred and Little Creek hundred, in Kent county aforesaid, as at present constituted, lying on the west side of the west line of the Delaware railroad, and all the laws of this State that apply to hundreds in Kent county, as such, shall apply and extend to Kenton hundred hereby created and established as a separate and distinct hundred.

New hundred created in Kent co.

Name.

Certain portions of Duck Creek and Little Creek hundreds to compose said new hundred.

SECTION 2. *Be it further enacted as aforesaid,* That from and after the passage of this act, that Duck Creek hundred shall include and embrace that part of Duck Creek hundred as at present constituted, lying on the east side of the western line of the Delaware Railroad, and Little Creek hundred shall include and embrace that part of Little Creek hundred as at present constituted, lying on the east side of the western line of the Delaware railroad aforesaid.

Limits of Duck Creek and Little Creek hundreds.

SECTION 3. *Be it further enacted as aforesaid,* That Duck Creek hundred, Little Creek hundred, and Kenton hundred, as formed by this act, shall each have one of the commissioners of the Levy Court and Court of Appeal, and at the next general election in this State, one Levy Court commissioner shall be elected for Kenton hundred, in the place of the Levy Court commissioner for Duck Creek hundred, as at present constituted, whose term

Levy Court Commissioners for each hundred.

of office will then expire, and the Levy Court may appoint a constable for Kenton hundred upon the expiration of the term of office of the constable for Duck Creek hundred, at present resident within the limits of Kenton hundred, as formed by this act; and after the passage of this act Duck Creek hundred shall be entitled to two constables, and Kenton hundred and Little Creek hundred each to one constable. The Levy Court of Kent county may appoint annually an additional trustee of the poor for said county, to reside in Kenton hundred.

Constable.

Trustee of the Poor.

Where the elections in Kenton hundred are to be held.

SECTION 4. *Be it further enacted as aforesaid,* That all general and special elections, and all elections for assessors and inspectors, shall be held in Kenton hundred at the hotel now owned by John Green, in the town of Kenton.

Collector to be appointed

SECTION 5. *Be it further enacted as aforesaid,* That the Levy Court of Kent county shall, in the month of March, in the year of our Lord one thousand eight hundred and sixty-nine, and in each year thereafter, at the time fixed by law for the appointment of collectors, appoint a collector for Kenton hundred, and all the laws relating to collectors in Kent county shall extend and apply to the collector of said hundred.

Of the assessment list for Kenton hundred.

SECTION 6. *Be it further enacted as aforesaid,* That the Levy Court of Kent county shall, from the last assessments in Duck Creek hundred and Little Creek hundred, cause a duplicate or assessment list of the persons and property, real and personal, in Kenton hundred, as formed by this act, to be made; and the assessment list so made shall be the assessment list for Kenton hundred, and the taxes annually levied upon the persons and property contained in such list shall be collected by the collector of said hundred.

How long the assessment shall last.

The assessment list so made as aforesaid shall be the basis upon which taxes in said hundred are levied until the next assessment of personal and real property; *Provided,* That in making such assessment list and adjusting the assessments in Duck Creek, Little Creek and Kenton hundreds, respectively, that whenever the lands of any persons are crossed by the Delaware railroad, said lands shall be included in the assessment of that hundred where the mansion dwelling house on the premises is situate.

Proviso in relation to the assessment of real estate lying in each of said hundreds.

The act not to impair the collection of taxes.

SECTION 7. *Be it further enacted as aforesaid,* That the passage of this act shall in no way impair the right of any collector to complete the collection of duplicates or assessments in his hands for collection in the same manner as if this act had not been passed; but such collector or collectors, their executors or administrators, and the sureties of any such collector shall have the same powers, rights and remedies, and be under the same liabili-

ties to collect the taxes committed to such collector for collection as if this act had not been passed.

Passed at Dover, February 3, 1869.

CHAPTER 384.

DIVISION OF NORTH WEST FORK HUNDRED.

An Act to divide North-West Fork Hundred, in Sussex County, into two hundreds, to be called respectively North-West Fork Hundred and Seaford Hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That North-West Fork hundred, in Sussex county, shall be and the same is hereby divided into two hundreds for the purpose of holding the general and special elections, the election of assessors and inspectors, and for the appointment of constables, and for such other purposes as may be necessary to constitute the respective hundreds distinct and separate hundreds, with the rights that may properly appertain to them as such. All that part of said North-West Fork hundred now embraced in Upper North-West Fork election district shall constitute one hundred of Sussex county, and shall be called and known by the name of North-West Fork Hundred; and all that part of said North-West Fork hundred now embraced in Lower North-West Fork election district shall constitute one hundred in Sussex county, and shall be called and known by the name of Seaford Hundred, and all laws of this State that apply to hundreds of Sussex county, as such, shall apply and extend to the said North West Fork hundred and the said Seaford hundred as separate and distinct hundreds.

North West Fork hundred, Sussex co., divided into two hundreds.

For what purposes divided.

Name of hundred when divided.

SECTION 2. *Be it further enacted by the authority aforesaid,* That North-West Fork hundred and Seaford hundred, as formed

Each hundred to have a Levy

CONCERNING LIMITS.

Court Commissioner, and separate Assessor, Collector and Inspector.

by this act, shall each have one of the commissioners of the Levy Court and Court of Appeal; each shall have and be entitled to a separate assessor, collector and inspector, and such other officers as may have been provided by law for the said North-West Fork hundred as it existed heretofore; *Provided,* That nothing herein contained shall be construed to abridge the terms or to affect the rights, duties and obligations of any officer who may now be in office, and who may havebeen appointed or elected to any office the jurisdiction of which extends over the whole of said North-West Fork hundred; but it is expressly made and provided that each of said officers shall continue in office during the term for which he may have been appointed or elected; and the first appointment or election of the separate officers for each of said hundreds, in lieu of those who now hold over for the whole of said hundred as it now exists, shall only be made (if appointed) upon the expiration of the terms of the present incumbents, and shall only be had (if elected) at the next general or little election* preceding the time when the terms of said present incumbents shall expire.

Proviso in relation to the present officers of North West Fork hund.

Trustee of the Poor authorized for each hundred.

SECTION 3. *Be it further enacted,* That the Levy Court of Sussex county shall, in addition to the separate officers provided for in the preceding section, appoint annually, at the term now fixed by law for the appointment of trustees of the poor, one trustee of the poor for each of said hundreds.

The division line.

SECTION 4. *Be it further enacted,* That the dividing line between said hundreds of North-West Fork and Seaford shall be the line as laid down in the first section of Chapter 38, Volume 12 of Delaware Laws, of the act entitled "An act to divide North-West Fork hundred into two election districts."

Elections, where held.

SECTION 5. *Be it further enacted,* That all general and special elections, and all elections for assessors and inspectors shall be held in the said hundreds of North-West Fork and Seaford at the places now designated by law for holding elections in Upper North-West Fork election district. and in Lower North-West Fork election district.

Passed at Dover, March 11, 1869.

*So in enrolled bill.

CONCERNING LIMITS.

CHAPTER 385.

ELECTION DISTRICTS.

An Act dividing Christiana Hundred into two Election Districts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the purpose of holding elections for State and county officers in Christiana hundred, the said hundred shall be divided into two election districts, northern and southern. The Christiana Northern election district shall be composed of all that portion of said hundred lying northerly of the Lancaster turnpike, and all that portion of said hundred lying southerly of said turnpike to be called Christiana South election district. Division of Christiana hundred into two election districts.

SECTION 2. That the elections for the said Christiana South election district shall be held at the district school house No. 21, at Newport, and the elections for Christiana North election district shall be held at the usual place as heretofore. Where elections shall be held.

SECTION 3. At the said places shall be held the general elections, all special elections for the members of the General Assembly and representative in Congress, elections for electors of President and Vice President of the United States, and elections for road commissioners, for assessor of the said hundred, and for inspectors of the said election districts. The electors residing in said hundred shall vote in the election district in which they shall at the time reside. Whom to be voted for at said elections.

SECTION 4. All the laws of the State touching elections held in the several hundreds of the State shall apply to elections for the same officers of the said election districts, excepting only so far as the general law for the election of assessors and inspectors and road commissioners is qualified by the provisions hereinafter contained. Election laws to apply to said districts. Exception.

SECTION 5. There shall be elected, in accordance with the provisions of Chapter 17 of the Revised Statutes, one assessor for Christiana hundred, and one inspector for each of the said districts. In such election for assessor and inspector, the collector of said hundred shall be the presiding officer of Christiana North election district, and some qualified voter of the district, to be appointed by the Levy Court of New Castle county in the month Assessor and Inspectors.

CONCERNING LIMITS.

of March next previous to the election, shall be the presiding officer for Christiana South election district, and shall have all the powers and perform all the duties of the presiding officer of such election according to law; and if at any election for assessor and inspector in said Christiana South election district a presiding officer shall not have been appointed, or shall not be present at the time and place of opening the election, the electors present shall choose a presiding officer for said election according to the provisions of Section 10 of Chapter 18 of the Revised Statutes. The Levy Court of New Castle county shall, at the time of the appointment, make provision for the furnishing by the collector of a list of the voters of the said hundred to the person appointed as presiding officer as aforesaid.

Presiding officer, when and how voted for.

List of voters

Certificates of election.

SECTION 6. Immediately upon closing the election for assessor and inspector in the said election districts, and ascertaining the state of the vote, the presiding officer and judges of the election in each of said districts shall make and sign certificates according to law of the election of inspectors, varying from the form prescribed for that purpose by omitting the assessor, and in lieu of including the election of assessor in such certificate they shall make and sign a certificate of the number of votes given for each candidate voted for as assessor, and also of the number of votes given for each candidate voted for as road commissioner.

Presiding officers to assemble, when and where

SECTION 7. The said presiding officers and judges of both the said election districts shall assemble on the day next succeeding said election, at 12 o'clock M., at the place of voting in Christiana North election district aforesaid, and ascertain the aggregate number of votes given in both the said districts for each person voted for for road commissioner and for assessor. The candidate having the highest number of votes shall be declared duly elected assessor, and the candidate or candidates, according as there may be one or more to be elected, having the highest number of votes for road commissioner or commissioners, shall be declared duly elected road commissioner or road commissioners, and the presiding officers and judges shall make, sign and deliver certificates of said election according to law. If two candidates for said office shall have the highest and an equal number of votes, the collector or presiding officer of said Christiana North election district shall give a casting vote, which shall elect the candidate in whose favor it is given.

Tie vote.

Passed at Dover, February 9, 1869.

CONCERNING LIMITS.

CHAPTER 386.

ELECTION DISTRICTS.

An Act dividing Red Lion Hundred into two Election Districts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the purpose of holding elections for State and county officers in Red Lion hundred, the said hundred shall be divided into two election districts, eastern and western. The Red Lion Eastern election district shall be composed of all that portion of said hundred bounded as follows, to wit: Beginning on the Delaware river at the mouth of St. George's creek; thence proceeding up said creek to the Chesapeake and Delaware canal; thence continuing up said creek on the opposite side of said canal to Dragon creek; thence with said creek until it intersects the road leading from St. George's to New Castle; thence with said road north to Red Lion creek; thence down said creek to the Delaware river, and thence down said river, including Fort Delaware, to the place of beginning. All that portion of said hundred not included within the above described boundaries to be called Red Lion West election district.

Red Lion hundred divided into two election districts.

How divided

SECTION 2. The elections for the said Red Lion East election district shall be held at the school house in district No. 76, in Delaware City, or such other place in Delaware City as the inspector, who publishes the election, shall designate, and the elections for Red Lion West election district shall be held at the usual place as heretofore.

Elections, where held.

SECTION 3. At the said places shall be held the general elections, all special elections for the members of the General Assembly and representative in Congress, elections for electors of President and Vice President of the United States, and elections for road commissioners, one of whom shall reside in each election district, for assessor of the said hundred, and for inspectors of the said election districts. The electors residing in the said hundred shall vote in the election district in which they shall at the time reside.

At said elections whom to be voted for.

SECTION 4. All the laws of the State touching elections held in the several hundreds of the State shall apply to elections for the same officers of the said election districts, excepting only so

Election laws to apply to said districts.

CONCERNING LIMITS.

Exception. far as the general law for the election of assessor and inspector and road commissioners is qualified by the provisions hereinafter contained.

Assessors and Inspectors. SECTION 5. There shall be elected, in accordance with the provisions of Chapter 17 of the Revised Statutes, one assessor for Red Lion hundred, and one inspector for each of the said districts. In such election for assessor and inspector the collector of said hundred shall be the presiding officer of Red Lion West election district, and some qualified voter of the district, to be appointed by the Levy Court of New Castle county in the month of March next previous to the election, shall be the presiding officer for Red Lion East election district, and shall have all the powers and perform all the duties of the presiding officer of such election according to law; and if at any election for assessor and inspector in said Red Lion East election district a presiding officer shall not have been appointed, or shall not be present at the time and place of opening the election, the electors present shall choose a presiding officer for said election, according to the provisions of Section 10 of Chapter 18 of the Revised Statutes. The Levy Court of New Castle county shall, at the time of the appointment, make provision for the furnishing by the collector of a list of the voters of said hundred to the person appointed as presiding officer as aforesaid.

Presiding officer, when and how appointed.

List of voters

Certificates of election. SECTION 6. Immediately upon closing the election for assessor and inspector in the said election districts, and ascertaining the state of the vote, the presiding officer and judges of the election in each of said districts shall make and sign certificates according to law of the election of inspectors, varying from the form prescribed for that purpose by omitting the assessor, and in lieu of including the election of assessor in such certificate they shall make and sign a certificate of the number of votes given for each candidate voted for as assessor, and also of the number of votes given for each candidate voted for as road commissioner.

Presiding officers to assemble, when and where. SECTION 7. The said presiding officers and judges of both the said election districts shall assemble on the day next succeeding said election, at 12 o'clock M., at the place of voting in Red Lion West election district aforesaid, and ascertain the aggregate number of votes given in both the said districts for each person voted for for road commissioner and for assessor. The candidate having the highest number of votes shall be declared duly elected assessor, and the candidate or candidates, according as there may be one or more to be elected, having the highest number of votes for road commissioner or commissioners, shall be declared duly elected road commissioner or road commissioners, and the presiding officers and judges shall make, sign and deliver certificates

of said election according to law. If two candidates for said office shall have the highest and an equal number of votes, the collector or presiding officer of said Red Lion West election district shall give a casting vote, which shall elect the candidate in whose favor it is given. Tie vote.

Passed at Dover, February 23, 1869.

CHAPTER 387.

An Act Changing the Place of holding Elections for Brandywine West Election District.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapters 19 and 82 of the 12th Volume of Laws of Delaware be amended by striking out all after the word "held," in line four of Section 2 of each of said Chapters, and inserting in lieu thereof, "at the school house in school district No. 7."

Passed at Dover, March 17, 1869.

CHAPTER 388.

OFFICE PROVIDED FOR REGISTER IN CHANCERY AND CLERK OF ORPHANS' COURT, IN NEW CASTLE COUNTY.

SEC. 1. Levy Court of New Castle county authorized to provide a room for the Register in Chancery and Clerk of the Orphans' Court of said county.
Records, &c., to be removed when room is completed.

SEC. 2. The Recorder of Deeds of said county to use the present office of the Register in Chancery and Clerk of the Orphans' Court.

An Act relating to the Public Offices of New Castle County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That the Levy Court of New Castle county is hereby authorized to provide a suitable room in the main building or south- Levy Court of New Castle county authorized to provide a room for

Register in Chancery & Clerk of Orphans' Court of said county.

Records, &c., to be removed when the room is completed.

east wing of the Court House of said county, for the use of the Register in Chancery and Clerk of the Orphans' Court of said county, and that when said room shall be so provided, all of the books, records, papers, and other things belonging to said offices respectively, shall be removed to the same; and it shall thenceforth be the office of the Register in Chancery and Clerk of the Orphans' Court of said county, in lieu of the room now used for that purpose.

Recorder of Deeds of said county to use the present office of the Register in Chancery

SECTION 2. That when the room now used as the office of the Register in Chancery and Clerk of the Orphans' Court of said county shall be vacated as aforesaid, the Recorder of said county shall occupy the same as a part of his office in addition to the room now used by him.

Passed at Dover, April 7, 1869.

CHAPTER 389.

PRIVATE ACTS REVIVED.

An Act to Revive and Extend the Time for Recording Private Acts.

Preamble.

WHEREAS by Chapter 4, Section 3 of the Revised Statutes of the State of Delaware, it is provided that private statutes (namely "such as are not of a public nature, or published as such,") shall be recorded in the Recorder's office in one of the counties of this State within twelve months after their passage, or they shall be void;

AND WHEREAS by Chapter 1, Section 2 of Volume 13, Part 1, it is provided "that the Secretary of State be and he is hereby directed to exclude from the publication of the laws of this State all acts of incorporation, and other acts of a private nature, unless such acts contain a provision directing their publication";

AND WHEREAS a number of the private and unpublished acts heretofore passed have inadvertently been allowed to become void through ignorance of the aforesaid enactments;

CONCERNING THE LAWS.—REVENUE.

THEREFORE, for the purpose of relieving the parties interested of the embarrassments and disappointments arising from unintentional neglect in the premises,

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That all unpublished acts heretofore passed, and that have become void on account of not being duly recorded in compliance with the provisions aforesaid, be and the same are hereby severally revived and re-enacted, and, together with the provisions therein contained, are respectively declared to be in full force; and all acts and transactions done and performed under the provisions of said acts respectively shall have the same force and effect, and be as valid to all intents and purposes as if the said acts had been severally recorded according to law; *Provided,* That this enactment shall not take effect in the case of any act that has become void as aforesaid until a certified copy thereof, procured of the Secretary of State, shall be duly recorded in the Recorder's office of one of the counties of this State; *And provided further,* That no such copy of a voided act shall be received for record after the expiration of one year from the passage of this act.

All acts that have become void for not being recorded revived.

Certified copy must be procured and recorded within one year.

SECTION 2. This act shall be deemed and taken to be a public act and published as such.

Public act.

Passed at Dover, February 4, 1869.

CHAPTER 390.

OF THE REVENUE OF THE STATE.

CONCERNING THE PUBLIC REVENUE.

An Act Providing Revenue for this State.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, as follows, to wit:

SALES AND MANUFACTURERS.

Tax on sales

SECTION 1. That from and after the passage of this act, in addition to the taxes now imposed by existing laws, there shall be paid to the State Treasurer, for the use of the State, by every individual, association of persons, firm, or corporation, engaged in the business and occupation of purchasing and selling produce, merchandise, goods, wares and property of any and every description whatsoever, one-tenth of one per cent. on the gross amount of sales, less commissions, freights and United States tax, by him, her, or them made—the same to be paid on the first day

of July* in the present year, and at the end of every three months thereafter: *Provided*, that sales not exceeding in each year the value of one thousand dollars shall be exempt from the payment of the said tax, nor shall this act apply to the sales of foreign goods in the original packages of importation. Sales to exceed $1000 or exempt.

SECTION 2. That every individual, association of persons, firm, or corporation, engaged, as owner or owners, in the production or manufacture, by hand or machinery, of goods, wares or merchandise, or of any article or material, or any combination or composition of any articles or materials, of every nature and substance whatsoever, shall pay to the State Treasurer, for the use of the State, one-tenth of one per centum on the actual value of the gross amount, less commissions, freights and United States tax, by him, her or them produced or manufactured, or made as aforesaid, the same to be paid on the first day of July* in the present year, and at the end of every three months thereafter: *Provided*, that property so made or manufactured as aforesaid, not exceeding in each year the value of one thousand dollars, shall be exempted from the payment of the said tax: *And provided also*, that no individual, association, firm, or corporation, having paid the said tax imposed upon them under this section, shall be liable to the payment of the tax imposed by the next preceding section of this act upon the sales of the said articles, materials or compositions by him, her, or them so made or manufactured. Tax on manufactures. When paid. Property manufactured to exceed $1000 or exempt. Not taxed on sales.

Any incorporated company liable to the tax imposed by this section, paying the tax imposed by section eight of this act, upon its capital stock, may deduct from the tax imposed by this section an amount equal to one-half of the tax paid by such company upon its capital stock, and the State Treasurer may allow such deduction at any quarterly payment after the tax upon the capital stock has been paid. Deduction in certain cases.

That this section shall be held to include persons, associations, firms, and corporations, engaged, as owners or principals, in the following occupations and kinds of business: The occupations and kinds of business included.

Makers of agricultural implements.

Manufacturers of phosphates and other fertilizers, and of lime.

Manufacturers of cigars, tobacco and snuff.

Makers or builders of railroad cars.

Manufacturers, or builders, or makers of carriages, velocipedes and sleighs; wheelwrights.

Ship carpenters, or builders or repairers of sailing or steam vessels, or boats, of every description.

Sail, tent, awning or bag makers.

Coopers.

* See Supplement to this act, page 376.

CONCERNING THE PUBLIC REVENUE.

Turners of wood, iron, brass, and other materials.

Millers, including flouring, grist and saw mills.

Box-makers, undertakers, cabinet-makers, upholsterers, manufacturers of moldings, window-sash, doors, shutters, blinds, and makers of picture frames.

Machinists, boiler makers, and car wheel manufacturers.

Founders of brass, iron, steel, and other metals.

Manufacturers of iron, and articles made of iron, brass, steel, copper, tin, and other metals.

Contractors for building houses, bridges, railroads, &c.

Manufacturers of steam engines, locomotives, and repairers of machinery; mechanical implements and machinists' tools.

Manufacturers of gunpowder.

Manufacturers of cotton, woolen, linen, and other textile or felted fabrics, and hoop skirts.

Manufacturers of matches.

Manufacturers of hardware and cutlery.

Manufacturers of boots and shoes, hose, belting, or other articles composed wholly or in part of leather, gum and gutta percha.

Manufacturers of jewelry, watches and clocks.

Merchant tailors, and manufacturers of ready-made clothing: not including clothes made of material furnished by customers.

Tanners and manufacturers of morocco and other leather.

Distillers, brewers and vinegar manufacturers.

Gas manufacturers; manufacturers of steam and gas fixtures; plumbers.

Soap and candle makers.

Bakers; candy and confectionery makers.

Paper makers, blank book manufacturers, bookbinders, and printers.

Hatters and furriers.

Photographers.

Manufacturers of spice and chocolate.

Rope, cordage, and block and tackle, spar and pump makers.

Potters, and persons engaged in the manufacture or making of bricks and tiles.

Manufacturers and refiners of coal oil or petroleum, and oils of every other description.

Manufacturers of articles made of stone or marble.

Canners of fruits, vegetables, meats, fish and oysters.

Manufacturers of quercitron bark, corn husks and sorghum.

Manufacturers of baskets, and peach and berry crates.

Kindling wood.

Manufacturers of barrel staves and headings.

Manufacturers of drugs and chemicals; surgical apparatus, including trusses, supporters, false limbs and bandages.

CONCERNING THE PUBLIC REVENUE.

Glass manufacturers and cutters.

Dentists, manufacturers of teeth; carvers, engravers, sculptors, painters, toy makers.

Manufacturers of blacking, and of writing fluids.

PROCESS.

SECTION 3. The officers hereinafter mentioned are hereby authorized and required to demand and receive, in addition to the fees heretofore required by law, the following sums for and on account of the State, which shall be pre-paid by the parties applying for the process or service mentioned, and which sum shall be taxed in the bill of costs, to abide the event of the suit, and be paid by the losing party. The Clerk of the Court of Errors and Appeals shall demand and receive for every writ of error issued out of said court, and for every appeal entered in said court, the sum of five dollars. The Prothonotaries of the Superior Court in the several counties shall demand and receive for every original writ issued out of said court, (except the writ of *habeas corpus*,) and on the entry of every amicable action, the sum of fifty cents; on every writ of certiorari issued to remove the proceedings of a justice of the peace, the sum of fifty cents; on every entry of judgment upon warrant of attorney to confess judgment, the sum of fifty cents for every five hundred dollars or fractional part of five hundred dollars secured by such judgment; and on every transcript of a judgment of a justice of the peace entered in the Superior Court, the sum of twenty-five cents: *Provided*, that the tax to be paid on the entry of any judgment for a less amount than one hundred dollars, or upon the entry of a transcript of a justice's judgment, shall be paid by the plaintiff without recourse to the defendant. The Recorders of Deeds shall demand and receive for every deed recorded, fifty cents, and for every mortgage fifty cents for every five hundred dollars or fractional part of five hundred dollars secured thereby, and on every other instrument of writing recorded, except marriage returns, fifty cents: *Provided*, that when any bond accompanies a mortgage, the payment of the tax on the mortgage shall exempt the judgment entered on the bond for the same debt from the tax aforesaid. The several Registers of Wills shall demand and receive, for the probate of a will and letters testamentary thereon, the sum of fifty cents, and for granting letters of administration, the sum of fifty cents. Every Register in Chancery shall demand and receive, for every subpœna issued upon the filing of any bill of complaint, or petition, and on every summons issued in partition, the sum of one dollar.

Tax on process.

Who to pay.

Who to collect.

Proviso.

Tax for recording deeds, &c.

Proviso.

Tax for probate of wills, &c.

Tax on certain writs issued out of Court of Chancery.

SECTION 4. The Clerk of the Court of Errors and Appeals, the several Prothonotaries of the Superior Court, the Recorders of

CONCERNING THE PUBLIC REVENUE.

When officers collecting tax on process shall make return to State Treasurer and pay the sums collected.

Deeds, the Registers of Wills and Registers in Chancery shall, on the first day of July next* after the passage of this act, and at the expiration of every three months thereafter, make return to the State Treasurer of all sums in their hands, received under the provisions of this act, belonging to the State, with a full statement, in writing, setting forth the sources from which such amounts have been received, and shall verify such statement by oath or affirmation, made before some person authorized by the laws of this State to administer the same, and shall pay over to the State Treasurer, at the time of making such return, all such sums as shall respectively be due from them to the State, less one per centum on such amounts, which they are hereby authorized to retain as compensation for the services rendered under this act.

Penalty for neglect.

SECTION 5. If any Clerk of the Court of Errors and Appeals, Prothonotary, Recorder, Register of Wills, or Register in Chancery shall neglect or refuse to make the returns required by this act, or shall neglect or refuse to pay over to the proper officers the amounts in their hands respectively, belonging to the State, for a period of ten days after such payment should have been made, such officer so in default shall pay to the State double the amount so by him received, and the Attorney General shall immediately sue for the same, and such defaulting officer shall be guilty of a misdemeanor in office, and upon conviction thereof shall be removed from office by the Governor upon the application, in writing, of the Attorney General.

INSURANCE COMPANIES.

Tax on foreign insurance companies.

SECTION 6. Every agent of any Insurance Company incorporated or organized under the laws of any other State in the United States, or out of it, or by or under any law or laws of the United States, now engaged or that may hereafter be engaged in effecting insurances in this State in behalf of their principals, shall, on the first Monday in January, April, July and October in each year, during the continuance of his agency, whether such company be conducted upon the joint stock, mutual, or any other plan, or be incorporated or organized for the purpose of insuring lives or property, or against accident, pay to the State Treasurer, for the use of the State, two and one-half per centum on the gross amount of premiums received and assessments collected by such agent during the three months immediately preceding the said first Monday in each of the months aforesaid in each year. And every such agent shall, at the time of making such payments, furnish to the State Treasurer a statement showing the gross amount of premiums received and assessments collected, and the names of the persons from whom the same has been received,

When to be paid.

Amount.

Statement—what to show.

* See Supplement to this act, page 376.

and shall verify such statement by his oath or affirmation, taken before some person who, by the laws of this State, is duly authorized to administer the same. If any such agent shall neglect to make the returns or payments hereby required for a period of thirty days after such returns and payments should have been made, he shall forfeit to the State the sum of two hundred dollars, to be recovered by the State Treasurer, by suit, in his own name, upon this section: *Provided* that the first statement and payment to be made under this section shall be on the first Monday in July next* after the passage of this act.

Penalty for neglect.

Proviso.

SECTION 7. Every Insurance Company incorporated or organized by or under any law of this State, whether such company be conducted in whole or in part upon the plan of mutual insurance, joint stock, or any other plan, or be engaged in effecting insurance upon lives or property, or against accident, shall be subject to, and shall pay, on the first day of January next, and on the first day of January in each and every year thereafter, a tax of one-half of one per centum on the amount of premiums received for insurance, or interest paid upon investments of such company, or upon deposit notes held by said company, and the amount of dividends credited to persons insured during the year preceding. And it shall be the duty of the treasurer, or other financial officer of every such company, on the said first day of January next after the passage of this act, and on the first day of January in each and every year thereafter, or within thirty days of the times aforesaid, to make a return and statement, under oath or affirmation, duly administered by some person authorized by the laws of this State to administer oaths, to the State Treasurer, setting forth therein the amount received by said company from premiums upon policies, and interest from investments and deposit notes, and the amount of dividends credited by such company to persons insured. And it shall be the duty of such treasurer or financial officer to pay to the State Treasurer, at the time of making such return and statement, for the use of the State the aforesaid tax of one-half of one per centum on the amount so as aforesaid received. And if any such treasurer or financial officer shall neglect or refuse to make the return or payment hereby required, for a period of thirty days after such return and payment should have been made, he shall forfeit and pay to the State the sum of one thousand dollars, to be recovered by the State Treasurer by action in his own name, upon this section.

Companies incorporated in this State to pay a tax.

When, the amount.

What to show and how verified.

Penalty for neglect.

CORPORATIONS.

SECTION 8. That every company incorporated by or under any law of this State, or incorporated by any other State and

Tax on corporations.

* See Supplement to this act, page 376.

lawfully doing business in this State, or that may hereafter be incorporated, shall be subject to and shall pay to the State Treasurer, for the use of the State, on the first day of January next after the passage of this act, and on the first day of January in each and every year thereafter, or within thirty days of such times, a tax of one-fourth of one per centum on the actual cash value of each share of the capital stock of such company: *Provided* that this section shall not apply to banks and banking associations, railroad companies and canal companies, insurance companies, or building and loan associations subject to tax under other provisions of law.

Certain companies excepted.

Return.

SECTION 9. That it shall be the duty of the president, treasurer, or other financial officer or person having charge of the funds of each said company liable to the tax imposed by the preceding section, to make return on the first day of January next after the passage of this act, and on the first day of January in each year thereafter, in writing, to the Assessor of State Tax for the county where such company's principal place of business is located, of the number of shares of the capital stock of such company and the cash value of each share thereof, and shall verify such return by his oath or affirmation, and such assessor shall assess said company with the tax to which it is liable under the next preceding section, and shall transmit the return so made to him with the assessments so made by him to the State Treasurer, and a duplicate thereof to the Collector of State Tax for the proper county. The president, treasurer, or other proper officer of each such company shall, within thirty days from the date of such return, pay to said collector the tax assessed to said company. If said tax be not paid within the time aforesaid, the State Treasurer shall issue his warrant to the collector with a duplicate of said assessment annexed for the collection of the tax due by said company, and shall add to the amount so due ten per centum thereon as a penalty for the default of such company, and such penalty shall be collected with the tax aforesaid.

Assessment.

When payment shall be made.

Penalty.

[PRIVATE BANKERS AND BROKERS, LAWYERS, PHYSICIANS, STATE AND COUNTY OFFICERS.]

Bankers, brokers, and real estate agents taxed

Amount.

SECTION 10. Every private banker and every broker and every real estate agent doing business within this State shall pay to the State Treasurer, for the use of the State, an annual tax of two per centum on the amount of the gross receipts received by him, her, or them by way of commission, profits, brokerage or other compensation for business transacted as such private banker, broker or real estate agent. Every person, firm or company liable to the tax imposed by this section shall, on the first

day of January next after the passage of this act, and on the first day of January in each and every year thereafter, furnish to the Assessor of State Taxes for the proper county, a statement of the amount of the gross receipts received by him, her or them during the preceding year as compensation, commissions, or profits from his said business, and shall verify such statement by his oath or affirmation. The assessor to whom such statement is rendered shall assess the person or firm liable to said tax with the amount due by such statement, and shall transmit one duplicate thereof to the State Treasurer and a duplicate to the Collector of State Tax for the county, and such collector shall, within thirty days thereafter, collect and pay over to the State Treasurer the amount of tax so appearing to be due by said duplicate. That every lawyer, physician, officer of the State, or county within this State, shall pay to the State Treasurer, for the use of the State, an annual tax of two per centum on their income from salary or fees, except such as are taxed in other provisions of this act. Every person liable to the tax imposed by this section shall, on the first day of January next after the passage of this act, and on the first day of January in each and every year thereafter, furnish to the Assessor of State Taxes for the proper county, a statement of the amount of receipts received by him during the preceding year, as income, salary, or fees, and shall verify such statements. The assessor to whom such statement is rendered, shall assess the person liable to said tax with the amount due by such statement, and shall transmit one duplicate thereof to the State Treasurer, to be collected in accordance with Section 41 [40] of this act.

Statement.

Assessment.

Lawyers, physicians, State and county officers to pay a certain tax.

Statement.

Assessment.

[BUILDING AND LOAN ASSOCIATIONS.]

SECTION 11. Every building and loan association within this State shall be subject to, and shall, on the first day of January next after the passage of this act, and on the first day of January in each and every year thereafter, pay to the State Treasurer, for the use of the State, a tax of one-fourth of one per centum on the amount of the gross receipts of said company for the preceding year. It shall be the duty of the treasurer or other financial officer of every such loan and building association or company, on the first day of January next after the passage of this act, and on the first day of January in each and every year thereafter, to make return to the Assessor of State Tax for the proper county of the amount of gross receipts of such loan or building association for the year preceding, and such assessor shall assess said association or company with the amount of tax for which the association is liable under this section, and shall transmit the return so made to him, and the assessment so made

Tax on building and loan associations.

Returns.

Assessment.

by him to the State Treasurer, and a duplicate of such assessment to the Collector of State Tax for the proper county. The treasurer or other financial officer of such association shall, within thirty days for [from] the said first day of January in each year, pay to the said Collector of State Tax the tax with which said association stands assessed, and if said tax be not paid within the time aforesaid, the treasurer and other officers of such association shall be individually liable therefor, and the State Treasurer shall issue his warrant to the collector aforesaid, authorizing and directing him to collect said tax out of any property belonging to said association, or to any of the officers of the association, within twenty days from the date of said warrant.

When to be paid.

Individual liability of officers.

Warrant of State Treasurer to collect.

[COLLATERAL INHERITANCES, DISTRIBUTIVE SHARES AND LEGACIES.]

Tax on collateral inheritances, &c.

SECTION 12. All estates, real and personal, whatsoever, passing from any person who may die seised and possessed thereof, being in this State, or any part of such estates, or any interest therein, transferred by deed, grant, bargain, gift, or sale, made or intended to take effect in possession after the death of the grantor, bargainor, devisor, or donor, to any person or persons, bodies politic or corporate, in trust or otherwise, other than to or for the use of the father, mother, wife, children and lineal descendants of the grantor, bargainor, devisor, donor, or intestate, shall be subject to a tax of three per centum on every hundred dollars of the clear value of such estates, and all executors and administrators shall only be discharged from liability for the amount of such tax, the payment of which they may be charged with, by paying the same for the use of this State as hereinafter directed: *Provided*, that no estate the value of which shall not exceed five hundred dollars shall be subject to the tax imposed by this section.

Exemption.

Executor or administrator to retain tax and pay same to Register.

SECTION 13. Every executor or administrator to whom administration may be granted, before he pays any legacy, or distributes the shares of any estate liable to the tax imposed by the preceding section, shall pay to the Register of Wills of the proper county three per centum of every one hundred dollars he may hold for distribution among the distributees or legatees, and at that rate for every less sum, for the use of the State. The tax aforesaid shall be paid by such executor or administrator within thirteen months from the granting of letters testamentary, or of administration, and any executor or administrator neglecting or refusing to pay the said tax shall not be allowed by the register any commissions on the estate, and shall be liable, on his official

Payment.

Penalty.

bond, for the amount of the tax due the State on the funds in his hands.

SECTION 14. In all cases where real estate of any kind is subject to the said tax, the Assessor of State Taxes for the county where such real estate is situate shall make an inventory and appraisement of said real estate, and shall return said inventory and appraisement to the Register of Wills for the county where such lands and tenements lie within six months from the time when the said real estate became subject to said tax, and the appraisement thus made shall be deemed and taken to be the true value of the said real estate upon which the said tax shall be paid. The amount of said tax shall be a lien on said real estate from the death of the decedent who shall have died seised and possessed thereof until the same shall be paid.

Appraisement of real estate.

Return to Register.

Lien.

SECTION 15. The executor or administrator shall collect the same from the parties liable to pay said tax, or their legal representatives, within thirteen months after the granting of administration as aforesaid, and pay the same to the Register of Wills of the county in which administration is granted, and if the said parties shall neglect or fail to pay the same within that time, the executor or administrator shall apply to the Orphans' Court of said county, and it shall be the duty of said court to grant an order authorizing and directing said executor or administrator to sell for cash, upon the usual notice, so much of said real estate as may be necessary to pay said tax and all expenses of such sale and the commissions of the executor or administrator thereon. The said order, with the proceedings of the executor or administrator thereunder, shall be returned to the next term of said Orphans' Court, and if the return aforesaid be approved by the court the executor or administrator making such sale shall execute and deliver to the purchaser of that part of said real estate sold a valid deed for the same, and such deed shall vest in the purchaser all the title and estate which the decedent had at the time of his death.

Executor or administrator to collect tax.

SECTION 16. In case any real estate of a decedent shall be subject to the collateral inheritance tax aforesaid, and there be only a life estate, or an interest for a term of years, or a contingent interest given to one person, and the remainder or reversionary interest to another, the Orphans' Court of the county where the real estate is situate shall, upon application of the executor or administrator, determine, in its discretion, what proportion each person interested in said estate shall pay of said tax, and the judgment of said Orphans' Court shall be final and conclusive, and every such person so interested as aforesaid, shall pay to the Register of Wills of said county his or her proportion of said

Orphans' Court, in certain case, to proportion tax.

Judgment final.

tax within thirty days after the determination of said Orphans' Court, and any person entitled in remainder or reversion shall be required to pay his or her proportion within thirty days after the said estate shall have vested in possession. If any party interested as aforesaid shall refuse or neglect to pay his or her proportion so decreed by said Orphans' Court within thirty days from the time of such decree, the said court shall order and direct the executor or administrator to sell all the right, title and interest of such person in and to said estate, or so much thereof as may be necessary to pay his or her proportion of said tax, and all expenses of sale.

Sale in case of neglect.

Executor or administrator liable on their bond for taxes received.

Failure to perform duties.

SECTION 17. The bond of an executor or administrator shall be liable for all money he may receive for taxes, or for the proceeds of the sale of real estate received by him under this act, and if any executor or administrator shall fail to perform any of the duties imposed upon him under the provisions of this act, the Register of Wills granting the letters of administration may revoke the same, and his bond shall be liable, and the same proceeding shall be had as if his administration had been revoked for any other cause. The powers and duties of an administrator *de bonis non*, or *de bonis non* with the will annexed, shall be the same, under this act, as an executor or administrator, and he shall be subject to the same liabilities.

Administrator d. b. n., or d. b. n. c. t. a. included

Payment of tax.

SECTION 18. Every executor or administrator collecting the tax aforesaid to which any real estate is subject by sale of said real estate, shall pay the tax so collected to the Register of Wills of the county where said real estate is situate.

Duplicate receipts.

To whom forwarded.

Effect of.

SECTION 19. Every Register of Wills receiving any collateral inheritance tax shall give the person paying the same duplicate receipts therefor, one of which shall be forwarded, by the person so paying as aforesaid, to the State Treasurer, to be by him preserved, and either of said duplicate receipts shall be evidence in suits upon the bond of said register to recover the taxes so by him received.

Register to make returns.

SECTION 20. It shall be the duty of the several Registers of Wills in this State to make returns, under oath, to the State Treasurer, on the first days of January, April, July and October, in each year, or within thirty days thereafter, of all sums of money received by them as taxes under the provisions of this act, referring to collateral inheritances, distributive shares, and legacies, the first return to be made on the first day of July next* after the passage of this act, and to pay over to said State Treasurer the amounts so by them received respectively, at the time of making such returns, for which they shall be allowed a com-

Commission.

* See Supplement to this act, page 376.

CONCERNING THE PUBLIC REVENUE.

mission of one-half of one per centum on the amount so paid over, and if any Register of Wills shall fail to pay over, as required by this section, the State Treasurer shall give notice to the Attorney General of the State, whose duty it shall be to institute suit on the official bond of such Register of Wills, entered into according to the provisions of this act, for the use of the State, to recover the amount due from such Register of Wills, and in such suit the amount appearing to be due, with interest thereon, and costs, shall be recovered, which recovery shall be evidence of misbehavior in office, and upon conviction thereof such Register of Wills shall be removed from office. Proceedings in case of failure to pay over.

SECTION 21. The Registers of Wills for the several counties, now in office, and who shall hereafter be appointed, shall respectively, immediately after the passage of this act, in addition to the bond now required by law, become bound unto the State of Delaware with sufficient surety (to be approved by the Chancellor or any Judge of the Superior Court) in the penal sum of five thousand dollars, with condition "that if the above named ——, who has been duly appointed Register of Wills in and for —— —— county, shall perform all the duties of his said office with fidelity, and shall from time to time duly account for and pay over, according to law, unto the Treasurer of the said State of Delaware all money belonging to the State which may come to the hands of the said —— —— as Register aforesaid, then this obligation shall be void, otherwise to remain in full force." The acknowledgment and approval of these obligations shall be certified to by the Chancellor or Judge by whom such approval is made. The obligations taken under this act shall be forthwith delivered to the Recorder of Deeds for the county wherein the same is taken, and by him recorded and filed in his office. Register to give bond. Form.

SECTION 22. Any register who shall neglect to comply with the requirement of the next preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred dollars, nor more than one thousand dollars, and shall *ipso facto* forfeit his office. Penalty for neglect of duty.

INVESTMENTS.

SECTION 23. All debts secured by or due on judgment, decree, recognizance, mortgage, or bond, from solvent debtors, (except debts due for goods sold and delivered, and work or labor done and performed within six months from the date of said evidence of debt, and bank notes); all stocks or shares owned by residents, firms, associations of persons or corporations of this State in any bank, institution or company incorporated in any other State or Tax on investments.

Territory, or in the District of Columbia; all debts due to residents, firms, associations of persons, companies, or corporations in this State by solvent debtors residing out of this State, (except debts due for goods sold and delivered, and for work or labor done and performed, within six months from the date of the evidence therefor); all investments in securities or stocks of other States, or of companies incorporated by other States, or by the United States, made or held by residents, firms, companies, associations of persons, or corporations of this State; and all investments in public loans and stocks whatever, made or held by residents, firms, companies, associations of persons, or corporations in this State, except in those created or issued by the United States and exempt from taxation, and such as have been issued by this State and exempt from taxation, shall be liable to assessment and tax; and every person, firm, company, association of persons, or corporation, owning or holding any debts, stocks, or shares and investments whatsoever, subject to such assessment and tax, shall pay to the State Treasurer, on the first day of October next after the passage of this act, and on the first day of October in each and every year thereafter, a tax of one-fourth of one per centum on the cash value of all such debts, stocks, or shares, or investments whatsoever, so held or owned by such person, firm, company, or association of persons, or corporation; *Provided*, That any creditor may contract with the debtor to pay, in addition to lawful interest, the tax imposed by this section.

When paid, amount

Creditor may contract to pay tax.

Of the returns to Assessor.

SECTION 24. Every individual, firm, association of persons, company or corporation owning or holding any debts, stocks, or shares, or investments subject to the tax imposed by the next preceding section shall, on the first day of September next after the passage of this act, and on the first day of September in each and every year thereafter, or within thirty days from such time, make return to the Assessor of State Tax for the county where such individual's, firm's, company's, association of persons' or corporation's residence or place of business is located, or nearest thereto, setting forth the amount and value of all debts, stocks, or shares and investments belonging to such individual, firm, association of persons, company or corporation subject to the tax aforesaid, and shall verify such return by oath or affirmation duly administered and subscribed; *Provided*, That such return need not disclose the names of the persons indebted to such individual, firm, association of persons, company or corporation. The assessor to whom return is made as aforesaid shall assess such individual, firm, association of persons, company or corporation with the tax imposed by the next preceding section, and

Proviso.

Assessment.

the tax so assessed shall be collected as other State taxes under the provisions of this act.

ASSESSMENT AND COLLECTION OF TAX.

SECTION 25. That for the purpose of securing to the State the taxes imposed by this act, the collection of which is not otherwise provided for, one person of suitable qualifications shall be appointed by the Governor in each county, who shall be styled "THE ASSESSOR OF STATE TAX," whose duty it shall be to ascertain and assess all persons, associations, firms, and corporations, together with the property for which they are liable to tax under the provisions of this act, and shall prepare a list of all such persons, associations, and corporations, and their property, liable as aforesaid, and deliver or cause to be delivered to every of them, printed forms, to be prepared by the State Treasurer, for the returns to be made by them respectively under the provisions of this act.

Governor to appoint an "Assessor of State Tax" for each county

Duty.

SECTION 26. That the said "Assessors of State Tax" shall be resident in the county for which they are respectively appointed, and shall be appointed for the term of two years, and be subject to removal at any time during such term by the Governor, upon cause shown, which shall be alleged in writing, and of which the party complained of shall have ten days' notice, and opportunity given of being heard in his defense. That before entering upon the duties of his said office, each said assessor shall take and subscribe, before some officer of this State duly authorized to administer the same, an oath or affirmation to discharge his duties impartially and faithfully; which said oath or affirmation shall be filed in the office of the State Treasurer.

Official term

Removal from office

Oath of office

SECTION 27. It shall be the duty of every person, association, firm, or corporation, made liable to be assessed for tax under the provisions of this act, in all cases where the said taxes are made payable quarterly, to make lists and return of the objects and amounts for and by reason of which they are liable to taxation under this act, verified by oath or affirmation, unto the Assessor of State Tax for the proper county within ten days after the last day of March, and of June, and of September, and of December, respectively, in each year; and in all cases where the said taxes are payable annually, within thirty days after said annual tax shall become due.

Persons, &c., to make list of property liable to tax.

How verified

When made.

SECTION 28. That in case any individual, association of persons, firm, or corporation liable to tax under this law shall neglect or omit to make returns, as required by this act, (for a period of ten days after the same shall be required as aforesaid,)

Duty of Assessors in cases of failure of persons to make returns.

or shall deliver or disclose any list, statement, or return which, in the opinion of the assessor, is false or fraudulent, that it shall be the duty of every assessor to ascertain and assess, and by all lawful means to inform himself of the amount of tax justly due from every such individual, association of persons, firm, or corporation, and for this purpose shall have authority to summon such person or persons, or any other person or persons he may deem proper, to appear before him and produce any books or papers, and answer, under oath or affirmation, respecting any objects liable to taxation as aforesaid. And in case of such fraudulent or false return being made, the said assessor shall add fifty per centum to the tax imposed. And all such assessors shall have power to administer oaths or affirmations and take evidence in all cases required by the administration of this law with which they are charged; and any perjury therein shall be punished in like manner as other perjuries are by the laws of this State. And the oath or affirmation required from any firm may be taken by any member thereof, and in case of a corporation, by the president, treasurer, or cashier thereof.

Additional tax in case of false returns.

Oaths.

Duplicates of the Assessors to be transmitted to State Treasurer.

SECTION 29. That it shall be the duty of the said assessors to transmit duplicates of the said assessments, in which the names of the persons, associations, firms and corporations liable to taxation under this act shall be alphabetically arranged, with their respective residences or places of business, within thirty days after the same are required by law to be made, unto the State Treasurer.

Compensation of Assessors.

Stationery.

Assessor of New Castle co. allowed clerk hire.

SECTION 30. That for their services the said assessors shall receive a compensation of five dollars per diem for every day in which they shall be actually engaged in the duties of their office, and also their expenses for stationery in their office and blanks requisite for the performance of their duties under this act. And the assessor for New Castle county shall, in addition, be allowed the sum of five hundred dollars per annum for clerk hire. And their accounts shall be verified by oath or affirmation, and audited by the State Treasurer and paid by him quarterly.

APPEAL.

State Treasurer to hear appeals from the assessment.

Notice.

How often heard.

SECTION 31. That the State Treasurer shall hear and determine appeals from the assessments of the Assessors of State Tax, and for that purpose shall give public notice, by advertisements printed in one or more newspapers of the respective county of the time and place in the several counties when [and where] he will hear appeals. Such appeals shall be heard in each county at least once in every three months; and the State Treasurer shall have authority to correct and adjust all assessments under this act,

and shall interrogate, on oath or affirmation, which he is hereby authorized to administer, any person making application for allowance, deduction, or discharge from any tax, and may hear other testimony thereon; and shall add thereto such proper assessments as may have been omitted. And in case any tax or penalties shall have been improperly assessed and collected from any person, association, firm or corporation under this act, before their appeal could be heard by the State Treasurer, he may make to such person, association, firm or corporation an allowance therefor to the amount of the tax improperly collected, and such allowance may be paid by the State Treasurer or deducted from the next quarterly or annual tax assessed to such person, association, firm, or corporation.

Power.

COLLECTION.

SECTION 32. All taxes imposed by this act shall be paid to the State Treasurer, who shall, immediately upon the passage of this act, give additional bond to the State in the penal sum of fifty thousand dollars, with sureties approved by the Governor, with the same condition as is prescribed by Section 11 of Chapter 24 of the Revised Statutes of this State, with warrant of attorney to confess judgment thereon. The said obligation shall be recorded by the Secretary of State in the executive register and be kept on file in his office. A certified copy shall be forthwith transmitted to the State Auditor of Accounts, and said copy or said record, or a copy thereof, shall be evidence. The said obligation shall be proceeded on by direction of the General Assembly, or the Governor.

All taxes to be paid to State Treasurer.

Additional bond.

SECTION 33. It shall be the duty of the State Treasurer, immediately upon receiving the duplicates of assessment of taxes from the said assessors, to proceed to collect the same, and for that purpose, in the month of May of each year, he shall appoint one or more persons well qualified, and resident in the county for which they are appointed, and the State Treasurer shall, from time to time, deliver to them a certified list and statement, or duplicate, in writing, of the taxes to be by them collected, and the names of the parties liable to pay the same, alphabetically arranged, and shall endorse, over his own signature, upon such certified statement, the warrant of each such collector, setting forth his full name, and the hundred or hundreds in and for which he is authorized to collect the said tax.

When State Treasurer shall proceed to collect tax.

Shall appoint one or more Collectors for each county.

Shall deliver to them a list of taxes.

SECTION 34. The State Treasurer shall be responsible for the faithful execution of the warrant issued as aforesaid, and for the money thereby authorized to be collected, and shall require of each collector so appointed, before he acts as such, to become

Responsibility of Treasurer.

Collectors to give bond.

bound in an obligation unto him as State Treasurer, with two sureties to be approved by the State Treasurer, in a penalty double the supposed amount of tax to be collected by such collector, in the year for which he is appointed, with condition,

Form.

"That if the above bounden —— —— shall well and faithfully execute his said office of collector, and account for and pay unto the State Treasurer, or to his order, or to his successor in office, all money which he shall receive and collect under any law now in force, or which may hereafter be enacted, at such times as the law shall direct, then the said obligation to be void, otherwise to remain in full force and effect." To this obligation there shall be annexed a warrant of attorney to confess judgment thereon. The said bonds shall be filed and kept in the office of the State Treasurer, and shall be proceeded on at the instance of the State Treasurer.

Vacancies in office of Collector.

SECTION 35. If any collector shall die, remove from the county, resign, or become, from any cause, incapable of executing his duties, the State Treasurer shall have power to appoint a collector in his place. But the State Treasurer shall, before such appointment, give notice to the sureties of the former collector, and one of them, if he offer sufficient sureties, shall be appointed for the remainder of the said term. The liability of the former collector, or of his sureties, shall not be affected by such appointment.

Duties of deceased Collector devolve on his executor or administrator.

SECTION 36. Upon the death of a collector, while his warrant is in force, the authority to execute it shall devolve upon his executors or administrators, subject to the power of the State Treasurer to appoint another in lieu of the deceased; and in case of such appointment it shall be the duty of the executors or administrators of the deceased to surrender the warrant and duplicate which were in his hands.

Process of Treasurer and Collectors to collect tax.

SECTION 37. The State Treasurer, and the collectors to be by him appointed, and the executors and administrators of such collectors for the collection of the taxes imposed by this act, shall have all the powers to enforce the payment of taxes granted to collectors of taxes by Chapter 12 of the Revised Code, or may sue for and recover the same in an action of debt or in any other form of action.

When Collectors shall pay to Treasurer taxes collected.

SECTION 38. Every collector appointed under this act shall pay to the State Treasurer, on the first day of each month, the taxes by him collected during the preceding month, and at the end of the term for which he was appointed shall pay over to the State Treasurer the whole amount for which he is liable as such collector.

CONCERNING THE PUBLIC REVENUE.

SECTION 39. Each said collector on receiving, from time to time, from the State Treasurer the certified lists and statements of the taxes committed to him for collection, shall transmit duplicate receipts therefor unto the State Treasurer and the State Auditor, exhibiting the aggregate amount of taxes in the said certified list and statement or duplicate to be by him collected. And all such certified lists and statements shall be open to the inspection of any citizen.

Collectors to give duplicate receipts for lists of taxes.

SECTION 40. Each said collector shall, within ten days after receiving from the State Treasurer as aforesaid the certified lists and statements of taxes to be collected as aforesaid, give notice by advertisement published in one or two newspapers of the county wherein he resides, and also by handbills posted in ten or more of the most public places in each hundred for which he shall be collector, that the said taxes have become due and payable, and state the time and place* within such county where he or his deputy will attend to receive the same; which time shall not be less than ten days after such notification. And if any person, association, firm, or corporation shall neglect to pay their taxes as aforesaid, for more than ten days after the time so appointed, it shall be the duty of the collector or his deputy to issue to such person, association, firm, or corporation a notice, to be left at their usual place of business, or be sent by mail, demanding payment of said taxes, stating the amount thereof, with a fee of twenty cents for the issue of such notice and four cents for each mile necessarily traveled in serving the same. And if such person, association, firm, or corporation shall not pay the taxes so demanded, and the fee of twenty cents and mileage as aforesaid, within ten days after the service or sending by mail of such notice, it shall be the duty of such collector to collect the said taxes and fee and mileage together with a penalty of ten per centum additional upon the amount.

Notice that taxes are due, and the time and place where they will be received.

Persons neglecting to pay taxes.

Additional notice

Additional tax.

SECTION 41. The State Treasurer shall receive for the performance of his duties under this act, and in addition to his present salary, annually, the sum of eight hundred and fifty dollars. Each collector shall be allowed by the State Treasurer in settlement of his accounts, as compensation for collecting the taxes committed to him for collection, a commission of two and one-half per cent. on the amount collected; *Provided*, that in all cases when the commissions aforesaid will exceed one thousand* dollars, the collector shall, instead of commissions, be paid a salary of one thousand* dollars in lieu of commissions, one-fourth part of which shall be allowed to such collector by the State Treasurer in settlement of his accounts quarterly.

Increase of Treasurer's salary.

Compensation of Collectors.

Passed at Dover, April 8, 1869.

*See section 2 and 6 of supplement to this act, page 376.

CONCERNING THE PUBLIC REVENUE.

[NOTE.—The Supplement here next published directs the foregoing act to be published as amended, and the act has been so published where words and sentences are directed to be stricken out of the different sections and others inserted, but the additional provisions enacted which could not be inserted without forming new sections, will be found in the Supplement, the said supplement not giving the Secretary of State the power to change the numbering of the sections.

CUSTIS W. WRIGHT,
Secretary of State.]

CHAPTER 391.

OF THE REVENUE OF THE STATE.

A Supplement to the act entitled, "An Act Providing Revenue for this State," passed at Dover, April 8, 1869.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Time for returns may be extended.

SECTION 1. That in case the returns required to be made on the first day of July next after the passage of the act to which this is a supplement cannot be properly made by that time, the State Treasurer may extend the time for making such returns and the payment of the tax due on said day until the first day of October next thereafter.

Places to be appointed to receive taxes

SECTION 2. The State Treasurer shall appoint one or more places in each hundred where the collector will meet the persons subject to tax under the provisions of the act to which this is a supplement, to receive the taxes to be by him collected.

Section 23 of original act amended.

SECTION 3. That Section 23 of the act to which this is a supplement be amended by striking out the word "January," wherever it occurs in said section, and inserting in lieu thereof the word "October."

Section 24 of original act amended.

SECTION 4. That Section 24 of said act be amended by striking out the word "January" and inserting in lieu thereof the word "September."

Liability of ficers for xes.

SECTION 5. That in case any of the taxes imposed by the said act cannot be collected by the State Treasurer and the collectors by him appointed, such officers shall not be liable for the same, provided they shall have used due diligence for the collection of said taxes.

CONCERNING THE PUBLIC REVENUE.

SECTION 6. That Section 41 of said act be amended by striking out the words "six hundred," wherever they occur in said section, and inserting in lieu thereof the words "one thousand." Section 41 of original act amended.

SECTION 7. The Secretary of State shall, in the publication of the laws of this State, publish the act to which this is a supplement as altered and amended by this act. Publication of act as amended.

Passed at Dover, April 9, 1869.

CHAPTER 392.

OF THE REVENUE OF THE STATE.

An Act Taxing Railroad and Canal Companies in this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all railroad and canal companies incorporated under the laws of this State, and doing business within the State, or which may hereafter be incorporated in this State, shall, on the first day of January next after the passage of this act, and on the first day of January in each and every year thereafter, in addition to the taxes now imposed upon such companies by the laws of this State, pay to the State Treasurer, for the use of the State, a tax of three per centum upon the net earnings or income received by said railroad or canal company, from all sources, during the preceding year: *Provided* that where the line of railroad or canal belonging to any company liable to the said tax lies partly in this State and partly in an adjoining State or States, the part or share of such net earnings or income of such company only shall be subject to the said tax as will be in that proportion to the Amount of tax. Proviso.

whole net earnings or income of such company which the length of said road or canal within the limits of this State bears to the whole length of such road or canal.

SECTION 2. *And be it further enacted as aforesaid,* That the president or treasurer of every company subject to the tax imposed by the first section of this act shall, upon the first day of January next, or within thirty days thereafter, and on the first day of January in each and every year thereafter, or within thirty days from such times, furnish to the Treasurer of this State a full statement, in writing, showing the net earnings or income of such company from all sources during the preceding year, and shall verify such statement by his oath or affirmation, made and subscribed before some person who according to the laws of the State where such oath or affirmation is made is authorized to administer the same; and shall forthwith pay over unto the Treasurer of this State the tax for which the said company is liable under the first section of this act. And in case the president or treasurer of any railroad or canal company liable to the said tax shall neglect or refuse to furnish the statement of net earnings of said company, as aforesaid, verified as aforesaid, to the Treasurer of this State, for a period of ten days after the same should have been furnished according to the provisions of this section, or shall refuse or neglect to pay over to the State Treasurer the tax aforesaid for a period of ten days after the same shall become due and payable, it shall be the duty of the State Treasurer, and he is hereby authorized and required to estimate, from the best information he can obtain, and assess the amount of tax due from such company under Section 1 of this act; and to issue his warrant, with a duplicate of such assessment annexed, to any collector of State taxes, authorizing and directing such collector to collect the said tax out of any property, real or personal, belonging to such company so in default within twenty days from the date of such warrant. And any collector to whom such warrant is directed shall have the same powers for collecting the tax mentioned in the duplicate accompanying the said warrant that by the laws of this State are conferred upon the collectors of county taxes for the collection of county rates and levies.

Return.

Neglect to make return and pay tax.

State Treasurer to assess amount of tax.

Warrant to Collector.

Power of Collector

SECTION 3. *And be it further enacted as aforesaid,* That in addition to the tax upon net earnings or income provided for in the first section of this act, every railroad company incorporated by this State, and doing business in this State, shall pay to the State Treasurer, for the use of the State, on the first day of January next, or within thirty days thereafter, and on the first day of January in each and every year thereafter, or within thirty

Tax on locomotives, passenger cars, freight cars, and trucks.

days from such times, a tax of one hundred dollars for the use in this State of each locomotive belonging in whole or in part to such company and at any time during the preceding year used by said company within this State; and twenty-five dollars for the use in this State of each passenger car belonging in whole or in part to such company, and at any time during the preceding year used by said company within this State; and ten dollars for the use in this State of each freight car, of every description, and each truck belonging to such company, and at any time during the preceding year used by said company within this State. The president, superintendent, or treasurer of every railroad company liable to the tax imposed by this section shall, annually, on the first day of January next, and on the first day of January in each and every year thereafter, or within thirty days from such times, furnish to the State Treasurer a statement showing the number of locomotives, passenger cars, freight cars of every description, and trucks belonging to such company, and used or employed at any time during the preceding year within this State, verified in the manner prescribed by the second section of this act; and shall forthwith pay over unto the State Treasurer the tax for which such company is liable under this section. In case the president, superintendent, or treasurer of any company liable to the tax imposed by this section shall neglect or refuse to furnish to the State Treasurer the statement required by this section, or shall neglect or refuse to pay the tax by this section imposed, for a period of ten days after the said statement should have been furnished or the said tax shall become due and payable, the State Treasurer shall give notice of such failure to one of the assessors of the State taxes, and such assessor shall, within twenty days after such notice shall have been received, inform himself, by all lawful means, of the number of locomotives, passenger and freight cars of every description and trucks belonging to such company so in default, and used by said company at any time during the preceding year within this State, and shall assess said company with the tax for which said company is liable under this section; and shall forthwith transmit such assessment to the Treasurer of the State, who shall, within ten days after the receipt thereof, forward a duplicate of the said assessment to any collector of State taxes, accompanied by a warrant authorizing and directing such collector to collect the tax in the said duplicate mentioned out of any property, real or personal, belonging to such company so in default within twenty days from the date of such warrant. And any collector to whom such warrant is directed shall have the same powers for collecting the said tax that by the laws of this State are conferred upon the collectors of county taxes for the collection of county rates and

Statement to be furnished by company

Neglect to furnish statement or to pay taxes.

Assessment of tax.

Warrant to Collector.

Powers of Collector.

CONCERNING THE PUBLIC REVENUE.

Meaning of word trucks or truck.

levies. The word trucks or truck, wherever they occur in this act, shall be taken to mean a pair of trucks.

SECTION 4. *And be it further enacted as aforesaid,* That every railroad company, and every canal company incorporated by or under any law of this State, and doing business within this State, shall, in addition to other taxes imposed by law, on the first day of July next after the passage of this act, and on the first day of July in each and every year thereafter, or within thirty days from such times, pay unto the State Treasurer, for the use of the State, a tax of one-fourth of one per centum upon the actual cash value of every share of the capital stock of such company. And it shall be the duty of the president or treasurer of every such company, on the first day of July next succeeding the passage of this act, and on the first day of July in each and every year thereafter, or within thirty days from such times, to furnish to the State Treasurer a statement of the number of shares of the capital stock of such company, with an estimate and appraisement of the actual cash value of each share of such capital stock, and shall verify said statement and appraisement in the manner prescribed in the second section of this act, and shall forthwith pay over unto the State Treasurer, for the use of the State, the amount of tax for which such company is liable under the provisions of this section: *Provided* that where the line of railroad or canal belonging to any company liable to said tax lies partly in this State and partly in an adjoining State or States, such company shall only be required to pay the tax aforesaid on such number of the shares of its capital stock as will be in that proportion to the whole number of shares of such capital stock which the length of said railroad or canal within the limits of this State bears to the whole length of such railroad or canal.

Tax on capital stock.

Statement to be furnished by company

Proviso.

Neglect to furnish statement or to pay tax.

SECTION 5. *And be it further enacted as aforesaid,* That in case the president or treasurer of any railroad or canal company liable to the tax mentioned in the next preceding section shall neglect or refuse to furnish the statement of the number of shares of the capital stock of said company, with the estimate and appraisement of the actual cash value of each share thereof, verified as provided by the fourth section of this act, or shall refuse or neglect to pay to the State Treasurer the tax provided for by the next preceding section of this act for a period of ten days after the said statement should be furnished or the said tax shall have become due and payable, it shall be the duty of the State Treasurer forthwith to give written notice to one of the assessors of State taxes of such failure, and such assessor shall, by all lawful means, inform himself, as correctly as possible, of the

number of shares of the capital stock of said company so in default, and the actual cash value of each share thereof, and shall assess upon such company the tax for which it is liable under the next preceding section, and shall return such assessment to the State Treasurer, within twenty days from the receipt of the notice aforesaid. The State Treasurer, upon the return to him of such assessment, shall forthwith issue his warrant, with a duplicate of the said assessment annexed, to any collector of State taxes, authorizing and directing him to collect the tax mentioned in the said duplicate within twenty days from the date of such warrant. And such collector shall have all the powers for collecting the tax aforesaid which by the laws of this State are conferred upon the collectors of county taxes for the collection of county rates and levies.

Assessment of tax.

Warrant to Collector.

Powers of Collector.

SECTION 6. *And be it further enacted as aforesaid,* That in case default shall be made in the payment of any of the taxes imposed and provided for by the preceding sections of this act, the company so in default shall pay, as a penalty, ten per centum on the amount of the tax so unpaid in addition to the said tax, and the collector to whom the State Treasurer's warrant is directed for the collection of the same shall add the said penalty of ten per centum on the amount of the tax mentioned in the duplicate accompanying the said warrant, and shall collect the said penalty with the said tax; and the said collector shall possess all the powers for the collection of the said penalty as are by this act conferred for the collection of the said tax.

Default of payment of taxes.

Penalty.

SECTION 7. *And be it further enacted as aforesaid,* That the warrant of the State Treasurer to a collector of State taxes, for the collection of any tax provided for by this act, shall be under the hand of the said State Treasurer, and shall have thereunto annexed a duplicate of the assessment of the tax to be collected, and may be in the following form:

STATE OF DELAWARE, SS.

The State of Delaware, to ————, *Collector of State Taxes for* ——— *county, Greeting:* We command you that you cause to be collected from the ——— Company the tax appearing to be due to the State by the annexed duplicate, and wherewith the said company, according to said duplicate, stands assessed; and that you also cause to be collected from the said company a penalty of ten per centum upon the amount of said tax mentioned in said annexed duplicate, in addition to the said tax; and that you return this warrant, and pay over the moneys

Form of Warrant.

collected by virtue hereof, unto the State Treasurer, within twenty days from the day of the date hereof.

IN WITNESS WHEREOF, I, ———, Treasurer of the State of Delaware, have hereunto set my hand this —— day of ———, A. D. 18—."

Passed at Dover, April 8, 1869.

CHAPTER 393.

OF THE REVENUE OF THE STATE.

An Act Taxing the Shares of Banks.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Tax on capital stock.

SECTION 1. That from and after the passage of this act there shall be paid annually, by the owner or holder thereof, on each share of the capital stock of every bank or banking association now or hereafter incorporated or organized under the laws of this State or of the United States, and carrying on business within this State, a tax of *one-fourth of one per centum* on the cash value of each share of capital stock: *Provided* that the share or shares of any bank or banking association in this State, organized under the laws of the United States, held or owned by any person or body corporate, shall not be subject to any tax exceeding the rate imposed upon the shares in any of the banks organized under the laws of this State, nor at a greater rate than is assessed upon any moneyed capital in the hands of individual citizens of this State. *Provided further*, That the payment of the tax hereby imposed upon the shares of any bank now liable to a tax upon its capital stock under any law of this State shall, for

Amount.

Proviso, national banks

Certain banks exempt from taxation under existing laws.

each year for which such payment shall be made, exempt such bank or banking association from the payment of the tax to which it is now subject under existing laws.

SECTION 2. *Be it further enacted as aforesaid,* That to ascertain the number of shares so taxable as aforesaid, as well as the value thereof, the president or cashier of each such bank or banking association is hereby required, on the first day of July next after the passage of this act, and on the first days of January and July in each year thereafter, to make out and furnish to the State Treasurer a list of the stockholders of such bank and bank association, together with the number of shares held by each, and shall also estimate and appraise the actual value of the said shares, and shall verify the said list and appraisement by the oath or affirmation of such president or cashier,—such oath or affirmation being duly attested by some officer of the State authorized by law to administer the same. And each said president or cashier is hereby authorized and required, on or before the first day of July next, and semi-annually thereafter on the first days of January and July in every year, to retain and deduct one equal half part of the annual tax aforesaid out of any dividend or profits declared upon the capital stock of such bank or banking association which may be due and payable unto every such holder of the shares of the said stock; and shall also, within ten days thereafter, account for and pay over the said amount of tax unto the State Treasurer for the use of the State. Where any bank or banking association has one or more branches, the president or cashier of the principal bank, and the president or cashier of each such branch bank shall respectively make the return of the number and value of the shares of the bank of which he is such president or cashier, and shall pay the tax for which the owners of such shares are liable. And if no dividend shall have been declared as aforesaid, sufficient to pay the tax aforesaid, then it shall be the duty of such president or cashier forthwith to certify the facts, in writing, unto the State Treasurer, who shall thereupon give notice, for a period of two weeks, by advertisement in one or more newspapers of this State, unto the said delinquent stockholders, calling upon him, her, or them to pay the amount of tax so due as aforesaid; and if, upon the expiration of the term of said notice, the said tax shall not have been paid, the said treasurer shall proceed forthwith to sell at public sale so many shares of the said stock of such delinquent shareholder as may be necessary to pay his, her, or their portion of the tax required to be paid as aforesaid, together with all costs and expenses of such publication of notice and sale, and shall forthwith deliver to the purchaser or purchasers a certifi-

Statement to be furnished to State Treasurer.

Deduction of tax out of dividends.

To be paid to State Treasurer,—When.

Branch banks each to furnish statement.

If no dividend sufficient, officer to certify to State Treasurer.

Notice to stockholders

Sale.

Certificate to purchaser.

CONCERNING THE PUBLIC REVENUE.

cate, under his hand, of the number of shares belonging to such delinquent shareholder, and by him, her, or them purchased, and such certificate shall vest the right to such shares in the purchaser, and upon presentation of such certificate to the cashier of the bank or banking association, the shares in which have been so sold as aforesaid, it shall be the duty of such cashier to transfer upon the books of the bank or banking association the number of shares sold as aforesaid to the purchaser, and to deduct the same from the number of shares held by such delinquent shareholder. If the cashier of any bank or banking association shall neglect or refuse to make the transfer as aforesaid he shall be guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay to the State a fine of one thousand dollars, and shall be liable to such purchaser, in a civil action, for the value of the shares so purchased as aforesaid.

Neglect of Cashier to transfer stock so sold

Penalty.

SECTION 3. *Be it further enacted as aforesaid,* That the president or cashier of each bank or banking association aforesaid, performing the duties required by this act, shall be allowed, by way of compensation for their services, a commission of two and one-half per centum upon the amount of tax by them respectively paid unto the State Treasurer under the provisions of this act.

Compensation of officer of bank.

SECTION 4. *Be it further enacted as aforesaid,* That in case the president or cashier of any bank or banking association aforesaid shall refuse or neglect, for a period of ten days, after the same is required by the provisions of this act, to furnish unto the State Treasurer a list of the stockholders of such bank or banking association as aforesaid, or to estimate and appraise the value in cash of the said shares, and verify the same under oath or affirmation as is required by the second section of this act, or shall neglect or refuse to retain and deduct and pay over from the dividends or profits aforesaid unto the State Treasurer the amount of tax due upon the said shares, then it shall be the duty of the State Treasurer forthwith to obtain a list of the stockholders of the said banks or banking associations whose president or cashier shall have neglected or refused to perform the acts and duties aforesaid, and to estimate and appraise the actual cash value of such shares of capital stock, and after giving public notice by advertisement unto such delinquent stockholders by name in one or more newspapers of the State, for the period of three weeks, to proceed to sell by public auction and transfer to the purchaser a sufficient number of shares of such capital stock belonging to any delinquent shareholder as may be required to pay the tax due from [each] such delinquent shareholder respectively, together with the costs and expenses incurred in procuring such list of stockholders and making publication and sale as aforesaid.

Neglect of officer to furnish statement, or deduct and pay over tax

State Treasurer to appraise stock.

Notice to stockholders

Sale.

CONCERNING PUBLIC REVENUE—ASSESSMENTS.

SECTION 5. *Be it further enacted as aforesaid,* That the act entitled, "An act in relation to National Banks in this State," passed February 16, 1866, be and the same is hereby repealed. Act repealed Vol. 13, p. 4.

Passed at Dover, April 8, 1869.

CHAPTER 394.

OF THE VALUATION OF PROPERTY.

Rev. Code, 27.
SEC. 1. Section 2, Chapter 11, amended.

SEC. 1. Assessment of real property to stand for four years.

An Act to amend Section Two of Chapter Eleven of the Revised Statutes of the State of Delaware, "Of Valuation of Property." Rev. Code 27

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section two of Chapter eleven of the Revised Statutes of the State of Delaware be amended by striking out the word "eight" in the sixth line and to insert in lieu thereof the word "four," and by striking out the word "eighth" in the seventh line and to insert in lieu thereof the word "fourth;" and that in copies of the said Revised Statutes of the State of Delaware hereafter to be printed, the said Section two shall be printed as hereby amended. Sec. 2, Chap. 11, amended. Assessment of real property to stand four years.

Passed at Dover, January 28, 1869.

CONCERNING THE COLLECTION OF TAXES.

CHAPTER 395.

OF COLLECTORS.

An Act concerning the Collection of Taxes.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Collectors to attend the places of holding elections at certain times, for purpose of receiving taxes

SECTION 1. That it shall be the duty of collectors of county and poor taxes in the several hundreds of New Castle county to attend at the places of holding the general election in their respective hundreds on the first Saturday of May, June, July, August, September, October and November, between the hours of nine o'clock A. M. and five o'clock P. M., in the year eighteen hundred and seventy, and every year hereafter, for the purpose of receiving the county and poor taxes, and all other taxes hereinafter provided for: *Provided* that when a hundred has been divided into two or more election districts, the collector shall receive the taxes at the different voting places alternately: *And provided also,* that taxes due in any part of the hundred shall be received at any voting place at which they shall be tendered.

Proviso

When the Collectors shall demand the taxes.

Of the deductions if paid on certain days.

Of the additions if not paid until certain days.

SECTION 2. That the said collectors shall on the first Saturday of May aforesaid demand from all persons liable to pay taxes the sums respectively charged to them on the duplicate or duplicates, and the said collectors shall deduct from the amounts of said duplicates three per centum on all amounts paid on the first Saturday in May; on the first Saturday of June shall deduct the sum of two per centum from amount of said duplicates; on the first Saturday of July shall deduct the sum of one per centum from amount of said duplicates; on the first Saturday of August shall collect the amount of said duplicates; on the first Saturday in September shall demand in addition to the sums charged as aforesaid the further sum of one per centum; on the first Satur-

day of October the further sum of two per centum; on the first Saturday of November the further sum of three per centum. And the collector shall, in every instance, mark on his duplicate, opposite the name of the person paying the tax, the date of said payment; and the said collectors shall attend at the election for inspector and assessor, and at the general election, and at all special elections, and shall demand, in addition to the amount charged on the duplicates, the per centage that is due or would be due on the regular day of payment next nearest the said election day.

Taxes, when paid over.

SECTION 3. It shall be the duty of each of the said collectors to pay over, within five days of each of the receiving days mentioned in the preceding section, to the County Treasurer, Treasurers of the Poor, and to all other persons entitled, their respective proportions of the amounts so received, including the per centage aforesaid; and upon making payment as aforesaid, after the first Saturday of November, the County Treasurer and all other persons entitled shall make settlement with the collectors and allow them at the rate of four dollars for every one hundred dollars so received and paid over.

When settlement shall be made with Collectors.

Pay of Collectors.

Taxes not paid at a certain time, when collected.

SECTION 4. That from and after the first Saturday in November aforesaid, the collectors shall collect the taxes then unpaid at such time and places as they shall choose, adding unto the taxes and per centage aforesaid the further sum of four per centum: *Provided* that this additional four per centum shall not be added to the taxes collected on the day of the general election.

Additional per centage.

Proviso.

Settlement of Collectors' accounts, when made by Levy Court.

SECTION 5. That the settlement and adjustment of the accounts of the collector by the Levy Court, as prescribed by Section 21, Chapter 8, of Revised Code, shall thereafter be made in the month of February, in every year, and on all sums received by the collectors between the first Saturday of November and the first Tuesday of February, and paid over within thirty days after the settlement by the Levy Court as aforesaid, the County Treasurer and all others entitled shall allow the collectors at the rate of eight dollars for every hundred dollars so received and paid over.

Amount allowed Collectors on the sums paid over.

Of the remedy against Collectors who fail to pay over.

SECTION 6. That in case any of the said collectors shall, within thirty days after the settlement described in the preceding section, fail to pay over to the County Treasurer or other persons entitled the balance so determined, the County Treasurer or other persons entitled shall immediately proceed upon the official bond of such defaulting collector.

Provisions of this act to apply to

SECTION 7. That the provisions of this act shall apply to the collection of road taxes in the several hundreds of New Castle

the collection of road taxes in New Castle co.

Commissioners to elect a Treasurer of the road tax.

His duties.

Pay of.

county, and that the road commissioners of the several hundreds aforesaid shall, annually, on the second Saturday of April, appoint one of their number, being a freeholder of the hundred, treasurer of the road tax, who shall give bond, with freehold security, to be approved by both the other commissioners, in double the amount of the road tax levied; the said treasurer shall receive all moneys due the hundred on account of the road tax, and shall pay all orders drawn on him by the other commissioners for material, or work, or other services, and every collector shall receive as money the aforesaid orders in the payment of all road taxes at any time during the year without adding or deducting from the taxes paid with said orders. He shall be allowed a commission of two per centum on all moneys disbursed.

When the Collector of road taxes shall settle.

SECTION 8. The collector of road taxes shall make a settlement with the road commissioners and their treasurer annually on the second Saturday of February, subject to the provisions of Sections 5 and 6 aforesaid.

When the Treasurer of road tax shall settle.

SECTION 9. The treasurer of the road tax shall make a settlement annually with the other road commissioners before the second Saturday of April, and shall pay over any balance found remaining in his hands to his successor in office immediately upon his appointment.

Inconsistent acts repealed

SECTION 10. All acts or parts of acts conflicting with the foregoing sections are hereby repealed.

Passed at Dover, March 17, 1869.

CHAPTER 396.

THE QUALIFICATIONS OF VOTERS.

An Act Relating to Voters.

Voters, their qualifications.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That no person of the age of twenty-two years or upwards, who has not resided in this State one year next before any election for governor, senator, representatives, sheriffs, and coroners, and the

last month thereof in the county whereof he offers to vote, and not having within two years next before the election paid a county tax which shall have been assessed at least six months before the election, shall enjoy the right of an elector.

Passed at Dover, April 9, 1869.

CHAPTER 397.

PLACE OF HOLDING ELECTIONS IN MISPILLION HUNDRED CHANGED.

An Act to amend Section 1, *Chapter* 18 *of the Revised Code, entitled "Of the General Election."* Rev. Code 4.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in generably* met,* That Section 1 of Chapter 18 of the Revised Code be amended by striking out "at the village of Prospect, in the school house," in line 28 of said section, and insert in lieu thereof "at the town of Harrington, at the hotel of Benjamin T. Fleming." Sec. 1, Chap. 18, Rev Code amended.

Passed at Dover, March 18, 1869.

*So enrolled.

CHAPTER 398.

PLACE OF HOLDING ELECTIONS IN BALTIMORE HUNDRED CHANGED.

An Act to amend Section 1 *of Chapter* 18 *of the Revised Statutes of the State of Delaware.* Rev. Code, 49.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 1 of Chapter 18 of the Revised Statutes of the State of Delaware be and the same is hereby amended by striking out all after the word "*at,*" in the fortieth line, to [the] word "*in*" in the forty-first line of said section, and inserting in lieu thereof the following: "some convenient place in the village of Roxana to be designated be [by] the inspector for the time being of Baltimore hundred." Sec. 1, Chap. 18, Rev Code amended.

Passed at Dover, April 6, 1869.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 399.

SALARIES.

Current Vol. 9. *An Act to amend an act entitled, "An act to Increase the Salaries of the Chancellor and Judges of this State."*

Sec. 1, Chap. 5, amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled, "An act to increase the salaries of the Chancellor and Judges of this State," passed at Dover, February 7, 1866, be and the same is hereby amended in the proviso to the first section thereof by striking out of the said proviso the words "in any right," and inserting in lieu thereof the words "in his own right," and that the said act shall hereafter be read and construed and in any future addition* of the laws shall be printed as the same is hereby amended.

How.

Passed at Dover, March 4, 1869.

*So enrolled.

CHAPTER 400.

SALARIES

An Act to Increase the Salary of the Secretary of State.

Salary of Secretary of State increased to $800.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the annual salary of the Secretary of State shall hereafter be eight hundred dollars, to be paid as now provided by law, and to commence with the day of the passage of this act.

Passed at Dover, March 17, 1869.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 401.

STATE TREASURER AND AUDITOR.

An Act to Repeal Chapter 511 *of the* 12*th Volume of Delaware Laws.* 12 Volume, 547.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 511 of the 12th Volume of Delaware Laws be and the same is hereby repealed.

Limit on the term of office of State Treasurer and Auditor repealed.

Passed at Dover, February 2, 1869.

CHAPTER 402.

OF SHERIFFS.

An Act to authorize the Sheriff of New Castle County to serve certain Writs.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That justices of the peace residing in the town of New Castle, in the County of New Castle, may direct the writs issued by them to the sheriff of said county, whose duty it shall be to receive and serve all such writs, and the sheriff of the said county is hereby made liable on his official obligation for the faithful performance of his duty under this act.

Sheriff of New Castle county directed to serve writs issued by the Justices of the Peace residing in the town of New Castle.

Passed at Dover, February 3, 1869.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 403.

OF CONSTABLES.

Current Vol. 12. *An Act to amend Chapter* 10 *of the* 13*th Volume of the Laws of Delaware.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Sec. 1, Chap. 10 amended.

Official term increased.

SECTION 1. That Chapter 10 of the 13th Volume of the Laws of Delaware entitled, "An act to amend Chapter 34 of the Revised Statutes, concerning Constables," be and the same is hereby amended by striking out of the seventh and ninth lines of section 1 of the said act the word "three," and inserting in lieu thereof the word "six."

Passed at Dover, February 10, 1869.

CHAPTER 404.

OF CONSTABLES.

Rev. Code, 95. *An Act to amend Chapter* 34 *of the Revised Code entitled, "Of Constables."*

Addition to Sec. 1, Chap. 34.

One of the Constables in Cedar Creek Hd., Kent county to reside in S. Milford.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 1 of Chapter 34 of the Revised Statutes of the State of Delaware be and the same is hereby amended by inserting after the word "county," in the last line of said section, the following, to wit: "one of the constables in Cedar Creek hundred shall reside in South Milford."

Passed at Dover, March 12, 1869.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 405.

NOTARIES PUBLIC.

An Act relating to the Notary Public for the Bank of Smyrna.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the privileges and duties of the notary public now appointed, or who may hereafter be appointed, for the Bank of Smyrna, shall not be confined exclusively to the business of that bank.

Notary Public for the Bank of Smyrna may transact other than bank business.

Passed at Dover, February 19, 1869.

CHAPTER 406.

NOTARIES PUBLIC.

An Act relating to the Notary Public for the National Bank of Newport.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the privileges and duties of the notary public now appointed, or who may hereafter be appointed, for the National Bank of Newport, shall not be confined exclusively to the business of that bank.

Notary for Newport National Bank not to confine his business to that of the bank.

Passed at Dover, March 4, 1869.

CHAPTER 407.

NOTARIES PUBLIC.

An Act authorizing the Governor to appoint an additional Notary Public in New Castle County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That the Governor be and he is hereby authorized to appoint an additional notary public in New Castle county, to reside in or near the village of Glasgow, in Pencader hundred.

Additional Notary for New Castle county.

Passed at Dover, February 23, 1869.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 408.

NOTARIES PUBLIC.

An Act creating an additional Notary Public in and for St. George's Hundred, New Castle County, to reside at Odessa.

Governor authorized to appoint an additional Notary for St. Georges' Hd., New Castle Co.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met.* That the Governor be and he is hereby authorized to appoint an additional notary public in and for St. George's hundred, New Castle county; the said notary public to reside in the town of Odessa.

Passed at Dover, April 8, 1869.

CHAPTER 409.

JUSTICES OF THE PEACE.

An Act for the Appointment of an additional Justice of the Peace in and for Sussex County, to reside at Delmar.

Additional Justice of the Peace for Little Creek Hd., Sussex Co.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring),* That the County of Sussex shall be entitled to one justice of the peace in addition to the number now allowed by law, and that he shall be appointed and continue to reside in Little Creek hundred, and in the town of Delmar.

Passed at Dover, April 2, 1869.

CHAPTER 410.

JUSTICES OF THE PEACE.

An Act to authorize the Governor to appoint an additional Justice of the Peace in South Murderkill Hundred.

Additional Justice for South Murderkill Hd., Kent county authorized.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Governor be and he is hereby authorized to appoint a [n] additional justice of the peace, to reside at or near the village of Hollandsville, South Murderkill hundred, Kent county.

Passed at Dover, April 5, 1869.

IN RELATION TO PUBLIC OFFICERS.

CHAPTER 411.

JUSTICES OF THE PEACE AND CONSTABLES.

An Act creating an additional Justice of the Peace and Constable in and for Dover Hundred, Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Governor be and he is hereby authorized to appoint one additional justice of the peace, also an additional constable, in and for Dover hundred, each to reside in the town of Marydell; said justice of the peace and constable to be subject to the existing laws made and provided and applying to said officers.

Additional Justice and Constable for Dover Hd., Kent County authorized.

Passed at Dover, April 6, 1869.

CHAPTER 412.

SEAL OF OFFICE.

SEC. 1. Clerk of the Peace of Sussex county to procure a new seal of office. Dimensions and device of seal.
SEC. 1. New seal to be used hereafter.
2. Costs, how paid.

An Act to authorize the Clerk of the Peace in and for Sussex County to Procure a New Seal of Office.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That Aaron B. Marvel, Clerk of the Peace in and for Sussex county, be and he is hereby authorized to procure a new seal, to be made of brass, of the size and engraved with the devices of the seal now in use in said office, which said seal, when completed, shall be taken, adjudged and deemed to be the seal of the Clerk of Peace's office in and for Sussex county, and shall thereafter be affixed to all writings, papers and copies where the seal of said office is required; and the said Aaron B. Marvel is then hereby authorized, directed and required to break up and destroy the seal of said office now in use.

Clerk of the Peace of Sussex co. to procure a new seal of office.

Dimensions and device of seal.

New seal to be used hereafter.

SECTION 2. That the Levy Court of Sussex county shall pay the necessary cost and expenses of procuring the said new seal.

Costs, how paid.

Passed at Dover, January 22, 1869.

IN RELATION TO PUBLIC OFFICERS—RECORDS.

CHAPTER 413.

SEAL OF OFFICE.

An Act to authorize the Clerk of the Peace for New Castle County to Procure a New Seal.

New seal authorized for the Clerk of the Peace of New Castle county.

Dimensions, &c., of seal.

New seal to be used.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That John Merritt, Clerk of the Peace in and for New Castle county, be and he is hereby authorized to procure a new seal for his office, to be made of steel or brass, of the diameter of an inch at least, and engraven with the devices of the present seal; and the said seal when finished shall be taken, adjudged and deemed to be the seal of office of the Clerk of the Peace in and for New Castle county, and that the expense of said seal and of procuring the same shall be borne by New Castle county and paid by the Treasurer of said county on the order of the said John Merritt.

Old seal to be destroyed.

SECTION 2. *Be it enacted by the authority aforesaid.* That when the said seal shall be so procured as aforesaid the said Clerk of the Peace shall cause the present [seal] to be broken and destroyed.

Passed at Dover, February 17, 1869.

CHAPTER 414.

COPY OF INDICES AUTHORIZED.

An Act authorizing the Recorder of New Castle County to copy Index.

Recorder of Deeds of New Castle county to make copy of certain mortgage index.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Recorder of Deeds of New Castle county be and he is hereby authorized to cause to be made a true and correct copy of the Direct Mortgage Index from 1850 to the present time in his office.

IN RELATION TO RECORDS.

SECTION 2. *And be it further enacted,* That if the Recorder shall copy the Direct Mortgage Index from 1850 to the present time as aforesaid, then that Peter B. Vandever and Benjamin R. Ustick be and they are hereby appointed commissioners, whose duty it shall be to examine the said index after the Recorder shall have completed it, and if they approve of the execution thereof they shall certify the same to be a true and faithful copy, and that then and after such certificate the said copy shall become and be the index. Commissioners appointed to examine copy.

Passed at Dover, January 27, 1869.

CHAPTER 415.

COPYING AND REBINDING OF INDICES.

An Act authorizing the Recorder of Deeds of Sussex County to copy and have rebound certain Indexes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That George M. Davis, the present Recorder of Deeds in and for Sussex county, be and he is hereby authorized to cause to be made a true and correct copy of the General Direct Index No. 2 to Deeds recorded in the office of said Recorder. The copy of a certain index authorized.

SECTION 2. *And be it further enacted,* That the said George M. Davis, Recorder as aforesaid, be and he is hereby authorized to cause the General Reverse Index No. 2 to Deeds recorded in said Recorder's office to be newly bound in a good and substantial manner. Certain index to be newly bound.

SECTION 3. *And be it further enacted.* That if the said George M. Davis, Recorder as aforesaid, shall copy and cause to be rebound the indexes as aforesaid, then that Custis W. Wright and Edwin R. Paynter, Esquires, be and they are hereby appointed commissioners, whose duty it shall be to examine said indexes after the said George M. Davis shall have completed them, and if they approve of the execution thereof they shall certify on the Commissioners to examine work.

record which is copied by the said George M. Davis the same to be a true and correct copy, and that then and after said certificate the said copy shall become and be the General Direct Index No. 2 to the said records.

Levy Court to make allowances.

SECTION 4. *And be it further enacted,* That it shall and may be lawful for the Levy Court of Sussex county to make such allowances to the said George M. Davis, Custis W. Wright and Edwin R. Paynter for the services required of them by this act as the said Levy Court may deem proper.

Passed at Dover, February 1, 1869.

CHAPTER 416.

COPY OF INDICES AUTHORIZED.

An Act to authorize the Prothonotary of New Castle County to make certain Indexes.

Prothonotary of New Castle county authorized to make copy of certain judgment indices.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Prothonotary of the Superior Court of the State of Delaware in and for the County of New Castle is hereby authorized and directed, if in the judgment of the said Superior Court it shall be deemed necessary, to make or cause to be made a true and correct copy of the indirect indexes of the judgments entered or signed in the said Superior Court from the year eighteen hundred and thirty-two to the present date, or an index of the judgments entered or signed in the said Superior Court between the dates above named which now remain unsatisfied of record.

Commissioners.

Their duties.

SECTION 2. *And be it further enacted,* That if the said Superior Court shall deem it necessary that the indexes aforesaid should be copied or transcribed, or that a new index should be made of the unsatisfied judgments as aforesaid, then that William G. Whiteley, George Gray and Ignatius C. Grubb be and they are hereby appointed commissioners, whose duty it shall be to examine such copy or transcript of the said judgment indexes,

IN RELATION TO RECORDS.

or such new index as aforesaid, after the said Prothonotary shall have completed it or them, and if they approve of the execution and correctness thereof they shall certify the same to be a true and faithful copy or index, as the case may be, and that then and after such certificate the said copy or new index shall become and be the index to the judgments entered or signed as aforesaid, or to the unsatisfied judgments in the said Superior Court for the time aforesaid in lieu of the indexes now used therein.

New index to be used.

SECTION 3. *And be it further enacted,* That the said Superior Court shall fix and certify to the Levy Court of New Castle county a reasonable and just compensation to the said commissioners and Prothonotary for their services; upon which said certificate or order of the said Superior Court the Levy Court of New Castle county shall pay to the said commissioners and Prothonotary the sum or sums so fixed and certified as above.

Compensation.

Passed at Dover, February 3, 1869.

CHAPTER 417.

REBINDING OF RECORDS.

An Act authorizing the Prothonotary of the Superior Court in and for Sussex County to rebind certain Records in his Office.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Prothonotary of the Superior Court of the State of Delaware in and for the County of Sussex is hereby authorized and directed to have the Judgment Records for 1848, 1850 and 1859, and Continuance Records for 1848 and 1850 in said office rebound, and for that purpose to have the said records placed in the hands of a suitable book-binder; the said records to be and continue under the control of the said Prothonotary during said rebinding.

Prothonotary of Sussex county directed to rebind certain records.

Passed at Dover, April 8, 1869.

RELIGIOUS SOCIETIES.

CHAPTER 418.

BOARD OF STEWARDS OF THE WILMINGTON CONFERENCE OF THE M. E. CHURCH.

An Act to Incorporate the Board of Stewards of the Wilmington Conference of the Methodist Episcopal Church.

SECTION 1. *Be it enacted by the Senate and the House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring therein),* That Charles Hill, Joseph Cook, John Hough, T. E. Martindale, J. F. Williamson, Thomas Carrow and Robert F. Thompson, and their successors in office (to be elected according to the provisions of the second section of this act), be and they are hereby created and declared to be a body politic and incorporate under the name of "The Board of Stewards of the Wilmington Conference of the Methodist Episcopal Church," and by that name shall have continuance and succession for twenty years, and are hereby authorized and empowered to receive, hold, invest and disburse, for the benefit of the disciplinary claimants on the said Wilmington Conference, any funds, property, securities or interests, which may be from time to time placed in their hands by the order of the said Wilmington Conference or by any will, bequest or donation of any person or persons whatever, to sue and be sued in any court of law or equity in this State, to have and to use a corporate seal, and to do and perform all other acts necessary to carry into effect the legitimate business of the corporation hereby created: *Provided, nevertheless,* that the property, funds or assets held by said corporation shall at no time exceed in value fifty thousand dollars: *And provided further* that the corporation hereby created shall make a report of all their transactions during the preceding year to the said Wilmington Conference at each annual session thereof, and which said report shall be subject to revision and approval by said conference.

Incorporation. Name. Succession. Corporate powers. Limitation of property. Report to Conference.

SECTION 2. *And be it further enacted as aforesaid,* That the Board of Stewards of the Wilmington Conference of the Methodist Episcopal Church, incorporated in the first section of this act, shall be composed of one minister and one layman for each presiding elder's district within the bounds of the said Wilmington Conference, to be chosen as follows: The ministerial members of said board shall be elected by ballot annually by said

How composed. How chosen.

Wilmington Conference, and the lay members of said board shall be elected by ballot by the Board of District Stewards of each and every presiding elder's district within the bounds of the said Wilmington Conference for the term of four years and until their successors shall have been duly elected as aforesaid; but for the first term of such lay members of said board, who shall be elected under the provisions of this section, it shall be the duty of the district stewards of Wilmington district, at their first meeting after the passage of this act, to elect by ballot as aforesaid one member for the term of one year; and it shall be the duty of the district stewards of Dover district, at their first meeting after the passage of this act, to elect by ballot as aforesaid one member for the term of two years; and it shall be the duty of the district stewards of Easton district, at their first meeting after the passage of this act, to elect by ballot as aforesaid one member for the term of three years; and it shall be the duty of the district stewards of Snow Hill district, at their first meeting after the passage of this act, to elect by ballot as aforesaid one member for the full term of four years; and if at any time any additional district or districts should be formed within the bounds of said Wilmington Conference, the district stewards for such additional district or districts shall at their first meeting of the creation of such district or districts be entitled to elect by ballot as aforesaid one member for each such additional district for the term of four years and until their successors shall have been duly elected.

Term.

First election of lay members.

Members for additional districts.

SECTION 3. *And be it further enacted as aforesaid,* That this act shall be deemed and taken to be a public act.

Public act

SECTION 4. *And be it further enacted as aforesaid.* That the Legislature hereby reserves the right to repeal this act.

Repeal

Passed at Dover, April 1, 1869.

RELIGIOUS SOCIETIES.

CHAPTER 419.

SUNDAY SCHOOLS AND YOUNG MEN'S CHRISTIAN ASSOCIATIONS.

An Act for the Promotion of Sunday Schools and Young Men's Christian Associations.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring herein) as follows, to wit:

Who may become incorporated.

SECTION 1. That it shall and may be lawful for ten or more persons associated together for the promotion of the interests of Sunday schools, or as a Young Men's Christian Association for the promotion of religious knowledge and improvement, to become incorporated by the election of managers, not less than three nor more than twelve, and by taking a corporate name and certifying the same, together with the object of the incorporation, under the hands and seals of the managers, to the Recorder of Deeds of the county, whose duty it shall be to record such certificate.

How to be incorporated

Certificate to Recorder of Deeds.

Succession.

Corporate powers.

SECTION 2. The managers so elected shall, upon the recording of such certificate, become a body corporate by the name so adopted and certified, and shall have succession for twenty years, with power to sue [and] be sued, and to purchase, receive, hold and enjoy property, real and personal, for the use and objects of the association, and to ordain by-laws for the regulation of its affairs not inconsistent with the laws of this State or of the United States: *Provided* that such corporation shall hold no real estate except such as shall be actually occupied and used for the purposes specified in the certificate of incorporation.

What real estate may be held.

Officers.

SECTION 3. The officers of the corporation, in addition to the managers aforesaid, shall be a president, who shall be one of the managers, secretary, treasurer, and such other officers as the by-laws shall prescribe. The managers shall be elected annually at such place and in such mode as the by-laws shall direct, and upon their election the managers shall appoint and may from time to time by resolution remove and reappoint the president, secretary, treasurer and other officers of the corporation. The managers shall have the management of the affairs and business of the corporation, and the acts of a majority shall be valid.

Election of managers.

Appointment and removal of officers.

Powers of managers.

Majority may act.

SECTION 4. This act shall be a public act and shall be published. The Legislature reserves the power at any time to revoke the corporate powers of any association incorporated under this act. Public act. Revocation.

Passed at Dover, April 8, 1869.

CHAPTER 420.

COLLEGE FOR AGRICULTURE AND MECHANIC ARTS

An Act supplementary to an Act entitled "An act establishing a College for Agriculture and Mechanic Arts," passed at Dover. March 14, 1867. Current Vol. 127

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the number of students from each county at any time shall not exceed thirty. Each hundred in each county shall have an equal number of the appointees to the college established by the act entitled "An act establishing a College for Agriculture and Mechanic Arts in this State," passed at Dover, March 14, 1867, and in making the nominations of the pupils under the act aforesaid hereafter, the hundred as herein named shall always be construed to mean such territory as was embraced within the limits of the respective hundreds in each county at the time the counties were each embraced within limits of ten hundreds only. Number of students from each county. Number from each hundred. Hundred, how construed

SECTION 2. They shall be nominated in this manner: each member of the General Assembly for the time being, whether during a session or in vacation as occasion may require, shall annually nominate the students to which his or their hundred shall be entitled, and nominations from hundreds within the meaning of this act shall be made whenever a vacancy occurs in a hundred by non-acceptance, death or otherwise. When there are two or more members of the General Assembly from one hundred, they shall decide who shall nominate from the hundred or hundreds within the meaning of this act having no resident mem- Students, how nominated. When made. How nominated from Hundreds having no resident member

ber, together with the hundred where they may reside, by writing the names of the hundreds on separate paper and drawing as by lot; the hundred which a member may so draw the same shall be his so drawing to nominate therefrom during his term.

Age of persons nominated on part of State.

SECTION 3. No person shall be nominated on [the] part of the State as a student of Delaware College who is under the age of sixteen years or over twenty-one.

Passed at Dover, March 15, 1869.

CHAPTER 421.

FREE SCHOOLS.

12 Volume, 108.

An Act to amend Chapter 70 of the 12th Volume of the Laws of Delaware.

Sec. 1, Chap. 70 amended. How.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 70 of the 12th Volume of the Laws of Delaware be and the same is hereby amended by striking out the word "fifty" in the tenth line of Section 1 of said Chapter, and inserting the words "one hundred."

Passed at Dover, April 6, 1869.

CHAPTER 422.

PUBLIC SCHOOLS IN WILMINGTON.

10 Vol. 644.
12 Vol. 281.
SEC. 1. Mayor and Council authorized to borrow $25,000.
To increase school accommodations.
SEC. 1. Limitation of payment.
Interest.
Who to prescribe time and manner of borrowing, &c.
Public debt may be increased.

10 Vol. 644. 12 Vol. 281.

An Act in further addition to the Act for the Benefit of Public Schools in Wilmington.

[SECTION 1.] *Be it enacted by the Senate and House of Representatives of the State of Delaware (with concurrence of two-thirds of each branch),* That the Mayor and Council of Wilmington shall have power, and the said the Mayor and Council of Wilmington are

hereby authorized to borrow upon the credit and faith of said city twenty-five thousand dollars for the use of the Board of Public Education in Wilmington, and to be paid to said Board to enable it to increase by building school accommodations as required by the act to which this act is a further addition. Said twenty-five thousand dollars may be borrowed in parts or sums as shall be offered, to be paid in a time not exceeding twenty years from the date of the borrowing, with interest at the rate of six per cent. per annum, payable half yearly; and the Mayor and Council of Wilmington may determine, or the City Council may prescribe by ordinance the time and manner of borrowing, the form of certificates of indebtedness, and any necessary matter to effectuate this act not inconsistent with its provisions. The public debt of the City of Wilmington may be increased by the said sum of twenty-five thousand dollars added thereto.

Mayor and Council authorized to borrow $25,000.

To increase school accommodations.

Limitation of payment.

Interest.

Who to prescribe time and manner of borrowing, &c.

Public debt may be increased.

Passed at Dover, January 22, 1869.

CHAPTER 423.

ADDITIONAL SCHOOL DISTRICT.

An Act to create an Additional School District in Kent County.

WHEREAS all that district of country lying between Old Duck Creek and the Delaware Bay, called and known as "Bombay Hook Island," within the limits of Kent county, in the State of Delaware, has not heretofore enjoyed the benefits of the Free School system established by the statutes of the said State; AND WHEREAS there are quite a number of children residing in the district aforesaid now deprived of the advantages to be derived from the said school system who ought to enjoy the same; now therefore,

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all that district of country lying between Old Duck Creek and the Delaware Bay, within the limits of Kent county, in the State

Location.

PUBLIC EDUCATION.

of Delaware, known as "Bombay Hook Island," be and the same is hereby created an additional school district in Kent county, and constituted a separate school district within the said county, and shall be subject to and governed by all the provisions of Chapter 42 of the Revised Statutes of the State of Delaware and the several amendments thereto; shall possess all the capacities, rights and powers with which school districts are by the laws of this State invested, and shall be numbered in continuation of the numbers by which school districts in the said county are now designated.

Creation of District.

Number of District.

Meeting of voters, when held.

SECTION 2. *And be it further enacted,* That the first stated meeting of the school voters in the additional school district created by this act shall be held on the first Saturday of April A. D. 1869, at some convenient place within the said district, and that the persons chosen at the said stated meeting to be the school committee of the said district shall, within ten days after the day of the said stated meeting, procure a certified copy of this act and cause the same to be filed in the office of the Clerk of the Peace in and for Kent county, who shall make a copy thereof and deliver the same to the Trustee of the School Fund, and the said Trustee of the School Fund shall open an account with the said district, and in all dividends hereafter to be declared or struck for school districts in Kent county the said district created by the first section of this act shall be included in the dividend account and shall participate in such dividends equally with other school districts in said county.

Committee to procure certified copy of act. Where to be filed.

Clerk of Peace to deliver copy to Trustee of School Fund

District to participate in dividends

Powers of school voters and school committee.

SECTION 3. *And be it further enacted.* That the school voters in the additional district created by the first section of this act and the school committee thereof shall have all the rights and powers of school voters and a school committee respectively under the laws of the State of Delaware.

Passed at Dover, February 17, 1869.

PUBLIC EDUCATION.

CHAPTER 424.

NEW SCHOOL DISTRICT.

An Act to create a New School District in Christiana Hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That School District No. 20, New Castle county, shall be divided, and that the new school district set off from School District No. 20 aforesaid shall be bounded as follows, viz: Beginning at the mouth of the Mill Creek and proceeding up said Mill Creek as it meanders to the line dividing the properties of Messrs. Henry Latimer and Robert P. Robinson; thence up said dividing line to the Wilmington and Christiana Turnpike; thence across said turnpike to Stidham's lane; thence up the centre of said lane to such point as would be the place of intersection of the centre of said lane and the centre of Du Pont street, produced from the City of Wilmington to said lane; thence up the centre of said produced street to the south-western boundary of the City of Wilmington aforesaid; thence along said boundary of said city to the Christiana River; thence along said river to the place of beginning.

School District No. 20 to be divided

Boundaries of new district.

SECTION 2. The school district set off and bounded as above described shall be known as School District No. 20½, and shall be entitled to all the rights and privileges of all other school districts.

Number of District.

Passed at Dover, February 18, 1869.

CHAPTER 425.

ADDITIONAL SCHOOL DISTRICT.

An Act to create an Additional School District.

[SECTION 1.] *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Wm. W. Dulaney, Wm. E. Rogers and Jacob Bounds be and they

Commissioners.

are hereby appointed commissioners to go upon and view School Districts numbers 102, 69, 109 and 161 in Sussex county and, if they deem it proper and necessary, locate and lay out from said districts one additional school district as to them shall seem just and proper; and when the said commissioners or a majority of them shall have so located and laid out said additional school district, they or a majority of them shall make return of the same, describing plainly the metes and bounds thereof, into the office of the Clerk of the Peace of Sussex county, to be by him filed among the records of his office. Said returns shall be made on or before the first day of May, and within ten days thereafter the said Clerk of the Peace shall make a copy thereof and deliver the same to the Trustee of the School Fund, and from and after the first day of May aforesaid the additional school district to be formed under the provisions of this act shall become and be deemed and taken to be a separate school district in Sussex county, with the capacity, rights and powers of a school district according to law, and shall be designated and numbered by its proper number succeeding the highest number of the school districts previously formed in the said county, and the said additional school district shall be entered by the Trustee of the fund for establishing schools in the State of Delaware among the school districts of said county and accounts opened therewith, and in all dividends hereafter made by said trustee, the respective dividends which may be due or hereafter may become due shall be equally divided among the said original districts and the additional school district to be created under the provisions of this act, and the school voters in said additional school district and the school committee thereof shall have all the rights and powers of school voters and a school committee respectively according to the laws of this State, and all the acts of the General Assembly of this State for the regulation, government and benefit of free schools within the State shall be extended and applied to the additional school district to be created under the provisions of this act.

From what districts to be taken.

Return to Clerk of Peace.

When.

Copy to be delivered to Trustee of School Fund

When deemed a separate district.

Number of District.

Dividends to be given to district.

Powers of school voters and committee.

Acts to be extended to district.

SECTION 2. *And be it further enacted,* That the commissioners appointed by this act shall severally, before entering upon the discharge of the duties imposed upon them by the provisions of this act, take and subscribe an oath or affirmation to perform the same with fidelity, and for each and every day the said commissioners may be employed in the discharge of their duties under the provisions herein contained, shall have and receive the sum of one dollar each, to be allowed by the Levy Court and Court of Appeals of Sussex county.

Oath of commissioners.

Fees of commissioners. How allowed.

SECTION 3. *And be it further enacted,* That if the said additional school district be formed as aforesaid, the school voters in

Meeting of voters.

the said district may meet at the place of meeting in said district which the said commissioners, or a majority of them, may deem proper to appoint, on the first day of June, at two o'clock in the afternoon, and appoint a chairman and secretary, and choose a clerk and two commissioners of said district. When. Officers to be chosen.

Passed at Dover, March 18, 1869.

CHAPTER 426.

OF FREE SCHOOLS.

An Act to authorize Certain Persons to call in and re-invest Certain Moneys heretofore appropriated under an act entitled, "An Act for the Encouragement of Internal Improvements in the State of Delaware." 11 Volume, 594.

WHEREAS by an act of the General Assembly of the State of Delaware, passed at Dover, January 26, 1859, entitled, "An act for the Encouragement of Internal Improvements in the State of Delaware," the sum of four thousand dollars was appropriated in Section 6 of said act for the purpose of building a Methodist Protestant Church at Townsend, which said sum of four thousand dollars was directed to be paid to John M. Naudain, Levi W. Lattomus and William Wilson, commissioners thereby appointed to build said church; AND WHEREAS it appearing to this General Assembly that the said commissioners appointed under the said act have altogether neglected or refused heretofore to act in the premises as therein by said act contemplated; AND WHEREAS a part of the said sum of four thousand dollars appropriated as aforesaid was paid over by the State Treasurer to John M. Naudain in his lifetime, as therein directed; AND WHEREAS the said John M. Naudain has since departed this life without having appropriated the money so paid over to him, or any part thereof, in the manner directed by said act; AND WHEREAS it is now deemed advisable that the money so appropriated under said act should be used for the benefit of School District No. 81, in Appoquinimink hundred, New Castle county, instead of the purpose originally designated by said act; Now, therefore, Preamble.

PUBLIC EDUCATION.

Commissioners to collect certain money.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Levi W. Lattomus, William Wilson and Richard Townsend be and they are hereby appointed commissioners in lieu of John M. Naudain, Levi W. Lattomus and William Wilson, mentioned in the original act, to demand, sue for, collect and receive of the legal representative or representatives of the said John M. Naudain, deceased, the money so received by him during his lifetime from the State Treasurer, by virtue of the act aforesaid, and further to collect and receive from the State Treasurer any balance in his hands applicable to the purpose aforesaid and not paid over by him.

Money collected, how to be invested.

Interest, to whom to be paid.

SECTION 2. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said commissioners, after they shall have received the moneys aforesaid, to invest the same in national bonds, State bonds, or on bond and mortgage, as to them may seem most advisable, and the interest or dividends arising from said investment they shall annually pay over to the commissioners of School District No. 81 in Appoquinimink hundred, New Castle county, for the benefit of said school district.

Vacancies, how to be supplied.

SECTION 3. *And be it further enacted by the authority aforesaid,* That in case of the death, refusal or neglect, to act of any of the commissioners appointed by this act, it shall and may be lawful for the school voters in said School District No. 81 in Appoquinimink hundred, New Castle county, to elect, at any annual stated meeting in the month of April, other or others to supply the place or places of him or them so dying, refusing or neglecting to act under the provisions of this act.

Passed at Dover, February 2, 1869.

CHAPTER 427.

OF FREE SCHOOLS.

An Act for the relief of School District No. 8 *in New Castle county.*

Preamble.

WHEREAS it appears to this General Assembly that the sum now authorized by law to be levied and raised by taxation in

PUBLIC EDUCATION.

School District No. 8, in New Castle county, is inadequate for the proper maintenance of the public school in the said district; Therefore,

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That it shall be lawful, from and after the passage of this act, for School District No. 8, in New Castle county, to levy and raise by taxation yearly any amount not exceeding the sum of six hundred dollars ($600) for the support of the public school in said district in the manner now provided by law.

May raise by taxation, $600.

For what purpose.

Passed at Dover, February 4, 1869.

CHAPTER 428.

OF FREE SCHOOLS.

An Act for the relief of School District No. 20 *in New Castle county.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall be lawful, from and after the passage of this act, for School District No. 20, in New Castle county, to levy and raise by taxation yearly any amount not exceeding the sum of six hundred dollars ($600) for the support of the public school in said district, in the manner now provided by law.

May raise by taxation, $600.

For what purpose.

Passed at Dover, March 15, 1869.

PUBLIC EDUCATION.

CHAPTER 429.

OF FREE SCHOOLS.

An Act to authorize School District No. 91, in New Castle County, to Mortgage School Property.

Commissioners to borrow money.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William Clark and Samuel Sharpless, commissioners, and J. Calvin Hall, clerk of School District No. 91, of New Castle county, are hereby authorized, directed and empowered to borrow such sum of money as to them may seem necessary, not exceeding fifteen hundred dollars, and to secure the payment of the same with interest, in three equal annual installments, on the 25th day of March in each year, by mortgaging the school house newly erected in said district and the ground appurtenant thereto.

Limitation of amount.

To be secured by mortgage.

Additional tax to pay mortgage.

SECTION 2. *And be it further enacted,* That the said commissioners and their successors in office are hereby authorized, directed and required to levy and collect yearly (in addition to the tax for carrying on the school, directed to be levied at the stated meetings,) such sum as shall be necessary to meet said annual payments and pay the same to the mortgagee, his heirs and assigns, according to the terms of said mortgage.

Passed at Dover, March 11, 1869.

CHAPTER 430.

OF FREE SCHOOLS.

An Act to authorize School District No. 29, in New Castle County, to Mortgage School Property.

Commissioners to borrow money.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Spencer Chandler and Stephen Wilson, commissioners, and

Ephraim Wilson, clerk of School District No. 29, of New Castle county, are hereby authorized, directed and empowered to borrow such sum of money as to them may seem necessary, not exceeding fifteen hundred dollars, and to secure the payment of the same with interest, in three equal annual installments, on the twenty-fifth day of March in each year, by mortgaging the school house newly erected in said district and the ground appurtenant thereto.

Limitation of amount.

To be secured by mortgage.

SECTION 2. *And be it further enacted,* That the said commissioners and their successors in office are hereby authorized, directed and required to levy and collect yearly (in addition to the tax for carrying on the school, directed to be levied at the stated meeting,) such sum as shall be necessary to meet said annual payments and pay the same to the mortgagee, his heirs and assigns, according to the terms of said mortgage.

Additional tax to pay mortgage.

Passed at Dover, March 12, 1869.

CHAPTER 431.

OF FREE SCHOOLS

An Act to authorize School District No. 20½, in New Castle [County,] to Mortgage School Property.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Isaac P. Russell and James A. Brown, commissioners, and Samuel K. Cloud, clerk, of School District No. 20½, in New Castle county, and their successors in office, are hereby authorized and empowered to mortgage the school property of said district on such conditions as they may consider most conducive to the interest of the aforesaid district.

Commissioners to mortgage school property.

Passed at Dover, April 8, 1869.

EDUCATION—POOR.

CHAPTER 432.

OF SABBATH SCHOOLS.

Current Vol. 126.

An Act to repeal Chapter 134, *Volume* 13, *Delaware Laws, entitled, "An act to amend Chapter* 41 *of the Revised Statutes of the State of Delaware."*

Chap. 134 repealed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 134, Volume 13 of Delaware Laws, entitled, "An act to amend Chapter 41 of the Revised Statutes of the State of Delaware, passed at Dover, March 20, 1867," be and the same is hereby repealed, made null and void.

Passed at Dover, February 9, 1869.

CHAPTER 433.

OF THE POOR.

An Act to authorize the Trustees of the Poor of Kent County to buy more Land.

Trustees of Poor authorized to purchase land.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Trustees of the Poor of Kent county may, in their discretion, having in view the interests alone of the tax payers of the county, purchase such lands contiguous to the present real estate held by them as in their judgment can be profitably used by them, and the expense attending such purchase shall be borne as other expenses connected with the maintenance of the poor of Kent county now are.

Expenses, how borne.

Passed at Dover, February 16, 1869.

OF THE GENERAL POLICE.

CHAPTER 434.

INTOXICATING LIQUORS.

An Act in Relation to the Sale of Intoxicating Liquors.

Current Vol, 105.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 3, Chapter 117 Thirteenth Volume Delaware Laws, be amended by striking out all after the word "act," in line twenty-one of said section, and insert in lieu thereof "and any keeper of an eating house, having paid the license as provided for in this said section for the same, may take out a license authorizing him to sell vinous, spiritous or malt liquors in less quantities than a quart, upon his paying to the Clerk of the Peace of his county, for the use of the State, the sum of one hundred dollars, and no other person may take out license to sell vinous, spiritous or malt liquors in less quantities than a quart, unless the applicant for said license has a house, beds, bedding and other furniture suitable for public accommodation, and unless said house is in a proper and convenient place and stage for the entertainment of travelers, which necessary accommodations must be certified to by at least twelve responsible citizens of the town or vicinity in which said house is located.

Sec. 3, Chap. 117 amended

Fee for Eating House (Liquor) License increased.

How to obtain Tavern License.

Passed at Dover, April 2, 1869.

CHAPTER 435.

FOR THE PROTECTION OF TERRAPINS.

An Act for the protection of Terrapins in Indian River and Rehoboth Bay, and waters adjacent thereto.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passage of this act it shall be unlawful for any person or persons to take, carry away, use, sell, or in anywise

Terrapins of certain size not to be disposed of.

dispose of any terrapin or terrapins taken or caught in or along Indian River and Rehoboth Bay, or waters adjacent thereto, of less size than four inches on the lower or under shell measuring lengthwise; but it is and shall be the duty of all and every such person or persons so catching or taking any such terrapin or terrapins of less size than four inches on the lower or under shell, measuring as aforesaid, to put into or return back to said waters any such terrapin or terrapins so caught or taken, and any person or persons violating any of the provisions of this section shall forfeit and pay for each and every offence ten dollars, one-half for the use of the State and one-half to the person who may sue for the same, to be recovered with cost of suit as other debts of like amount are recoverable before any justice of the peace in Sussex county.

Penalty for violation of this Section.

How recovered.

Unlawful to use dredges.

SECTION 2. *And be it further enacted as aforesaid,* That from and after the passage of this act it shall be unlawful for any person or persons to use any dredge or dredges for the purpose of catching or taking any terrapin or terrapins in said Indian-river or Rehoboth Bay, or waters adjacent thereto; any person or persons violating this section shall forfeit and pay twenty dollars for each and every offence, one-half for the use of the State and one-half to any person who may sue for the same, to be recovered with cost of suit as debts of like amount are recoverable before any justice of the peace in Sussex county.

Penalty.

How recovered.

Passed at Dover, March 16, 1869.

CHAPTER 436.

FOR THE PROTECTION OF FISH, OYSTERS AND GAME.

Rev. Code, 154.

An Act to amend Section 16. *Chapter* 55 *of the Revised Statutes of the State of Delaware.*

Sec. 16, Chap 55 amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 16 of Chapter 55 of the Revised Statutes of the State of Delaware be and the same is hereby amended by striking out all after the word "unobstructed," in the ninth line, and before the word "If" in the twelfth line of said section.

Wears, &c., in Indian River not to be taken up in May, of every year.

Passed at Dover, March 4, 1869.

OF THE GENERAL POLICE.

CHAPTER 437.

FOR THE PROTECTION OF FISH, OYSTERS AND GAME.

[*An Act to amend Section* 10 *of Chapter* 55 *of the Revised Code as amended.*] Rev. Code, 152. 12 Vol. 365

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That Section ten of Chapter fifty-five of the Revised Code as amended shall not prohibit any owner of any marsh or land bordering thereon, though not a citizen of this State, from catching, taking or killing any fish or wild fowl upon the marsh or land so owned by him and the waters adjacent thereto. Sec. 10, Chap 55 amended. Owners of land not prevented from killing game thereon.

Passed at Dover, March 9, 1869.

CHAPTER 438.

FOR THE PROTECTION OF FISH, OYSTERS AND GAME.

Revised Code, 153.
12 Volume, 252
SEC. 1. Section 1, Chapter 228, amended.

SEC. 1. Gillnets.
Indian River.
Rehoboth Bay.
Proviso.

An Act to amend an Act entitled "An Act to amend Chapter 55 *of the Revised Statutes of the State of Delaware."* Rev. Code, 153. 12 Vol. 252.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That an act entitled "An Act to amend Chapter 55 of the Revised Statutes of the State of Delaware," passed at Dover, February 7, 1862, be amended by striking out all of said act after the word "viz" in the fifth line of Section 1, and inserting in lieu thereof as follows: "any person residing within this State may set, use or keep any gill-net in Indian River or Rehoboth Bay in Sussex county, below Warwick; *Provided,* That no person shall set, use or keep any gill-net within two hundred yards of either shore of said river or bay below said point, nor shall any person set, use or keep any gill-net within one hundred and fifty Sec. 1, Chap. 228 amended. Gillnets. Indian river. Rehoboth Bay. Proviso.

yards of any other gill-net, nor shall any gill net be set, used or kept across the course of said river or bay nor within any sein-haul in said river or bay. Nor shall any person set, use or keep any gill-net or draw-sein over sixty-five fathoms in length in said river or bay.

Passed at Dover, April 2, 1869.

CHAPTER 439.

FOR THE PROTECTION OF FISH, OYSTERS AND GAME.

Revised Code, 153.
SEC. 1. Section 11, Chapter 55, amended.

SEC. 1. Partridges not to be killed in the night time.
Penalty.

Rev. Code, 153.

An Act to amend Chapter 55 *of the Revised Code.*

Sec. 11 Chap. 55 amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 11 of Chapter 55 of the Revised Code be amended by adding between the word "contrary," in line nine of said section, and the word "*Provided,*" in line ten, "no person shall take, kill or destroy, in this State, any partridge in the night time, forfeiting for every one so killed or taken two dollars, and every person found in any field with gun, dog, or net, between the hours of eight o'clock P. M. and seven o'clock A. M., having in his or her possession any partridge or partridges, shall be deemed to have taken or killed the same in violation of this act, unless he proves the contrary.

Partridges not to be killed in the night time. Penalty.

Passed at Dover, April 5, 1869.

OF THE GENERAL POLICE.

CHAPTER 440.

ESTRAYS.

An Act to Prohibit Cattle, Horses, Hogs, Sheep and all other Stock from Running at Large within certain limits within Cedar Creek Hundred, Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall not be lawful for any cattle, horses, hogs, sheep or any other stock, to run at large within the limits of School District Eighty-five, in Sussex county. Stock not to run at large in School District 85 in Sussex Co.

SECTION 2. *And be it further enacted,* That if any person or persons living within the limits prescribed as aforesaid, or any person or persons residing without said limits, shall wilfully suffer any cattle, horses, mules, sheep, hogs or other stock to run at large within the limits aforesaid [he or she] shall be liable to a penalty of one dollar for each and every day for each and every cow, horse, mule, sheep, hog or other stock so suffered to run at large, to be recovered by suit before any justice of the peace of Sussex county, upon complaint being made by any person interested, one-half of the said penalty to be paid to the prosecutor and the other half to the school commissioners of the school district in which the offence was committed, for the use and benefit of free schools; and the owner or holder of such cattle, horses, mules, sheep, hogs or other stock so found running at large within the limits aforesaid, shall be held liable for any and all damages committed by such cattle, horses, mules, sheep, hogs and other stock, to be recovered in like manner for the benefit of persons or parties damaged: *Provided* such penalty or damages be sued for within thirty days after each and every such violation of this act. Penalty for persons suffering stock to run at large. How recovered. Owner liable for damages. How recovered. Limitation of suit.

SECTION 3. *And be it enacted,* That nothing in this act shall be construed to interfere with or prevent any person from proceeding with such cattle, horses, hogs or sheep as provided in the law concerning strays. Not to interfere with law concerning strays.

SECTION 4. *And be it enacted,* That this act shall be deemed and taken to be a public act. Public act.

Passed at Dover, March 1, 1869.

OF THE GENERAL POLICE.

CHAPTER 441.

ESTRAYS.

An Act to Prohibit Cattle, Horses, Hogs, Sheep and all other Stock from Running at Large within certain limits within the Town of South Milford, Cedar Creek Hundred, Sussex County.

Stock not to run at large, within what limits.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall not be lawful for any cattle, horses, hogs, sheep or other stock to run at large within the following limits of Cedar Creek hundred, Sussex county, to wit: Two miles and a half in every direction from the bridge over Mispillion Creek, at the foot of Front street, South Milford, in said county.

Penalty for suffering stock to run at large.

SECTION 2. *And be it further enacted,* That if any person or persons living within the limits prescribed as aforesaid, or any person or persons residing without said limits, shall wilfully suffer any cattle, horses, mules, sheep, hogs or other stock to run at large within the limits aforesaid, [he or she] shall be liable to a penalty of one-half dollar for each and every day for each and every cow, horse, mule, sheep, hog or other stock so suffered to run at large, to be recovered by suit before any justice of the peace of Sussex county, upon complaint being made by any person interested, one-half of the said penalty to be paid to the prosecutor and the other half to the school commissioners of the school district in which the offence was committed, for the use and benefit of free schools; and the owner or holder of such cattle, horses, mules, sheep, hogs or other stock* to be recovered in like manner for the benefit of persons or parties damaged: *Provided* such penalty or damages be sued for within thirty days after each and every such violation of this act.

How recovered.

Owner liable for damages.

Limitation of suit.

Not to interfere with law concerning strays.

SECTION 3. *And be it enacted,* That nothing in this act shall be construed to interfere with or prevent any person from proceeding with such cattle, horses, hogs, sheep or other stock, as provided in the law concerning strays.

Public act.

SECTION 4. *And be it enacted,* That this act shall be deemed and taken to be a public act.

Passed at Dover, March 10, 1869.

*So in enrolled bill.

OF THE GENERAL POLICE.

CHAPTER 442.

ESTRAYS.

Current Vol. 138.
SEC. 1. Original act extended.
How.
Proviso.

SEC. 1. When part of penalty to be paid to prosecutor.
To whom balance to be paid.

An Amendment to the Act entitled, "An Act to prevent certain animals running at large within certain limits of School District No. 13, Kent county. Current Vol. 138.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the provisions of the act entitled, "An act to prevent certain animals running at large within certain limits of School District No. 13, Kent county," passed at Dover, March 8th, 1867, be, and the same are hereby extended and made to apply to all the part or parts of School Districts Nos. 12 and 85 in said county, included in the following bounds or limits, to wit: Beginning at the bridge over Little Creek on the public road leading from Dover to Dona Landing, thence by said public road to the margin of the salt marsh near Dona Landing, thence in a southward direction by the line of upland bordering on the salt marsh and extending from the said public road to Little Creek, thence by and up said Creek to the bridge at the place of beginning; *Provided,* that the town lots in the village of Little Creek Landing shall be exempt from the provisions of this act or the act to which it is an amendment, and, *provided further,* that one-half of the penalty prescribed by the said act to which this is an amendment shall be paid to the prosecutor, by virtue of this amendment, only when he or she shall be a resident within the limits mentioned in this act, and that the other half of said penalty shall be paid to the school commissioners of the districts either No. 12 or No. 85 in said county, in which said animals are so found running at large.

Original act extended.
How.
Proviso.
When part of penalty to be paid to prosecutor.
To whom balance to be paid.

Passed at Dover, April 6, 1869.

OF THE GENERAL POLICE.

CHAPTER 443.

ESTRAYS.

An Act prohibiting Live Stock from running at large in School Districts Nos. 20 and 20½, New Castle county.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

Stock not to run on highways, within what limits.

SECTION 1. That it shall not be lawful from and after the passage of this act for any live stock to run on the highways in School Districts Nos. 20 and 20½, New Castle county.

To be taken up.

SECTION 2. It shall be lawful for any person in the said School Districts to take up any live stock running on the highways in said districts and impound the same, and they shall have the right to demand and receive ten cents for every animal so taken up and twenty-five cents per head for every day such animals are kept, and may retain the same until all legal charges are paid.

Fees for taking up and impounding.

Animals may be retained.

SECTION 3. In case any damages may have been sustained by reason of such stock running at large, any justice of the peace of the county may appoint three suitable freeholders to estimate said damages, which, together with the legal charges for keeping said stock, shall be paid by the person claiming the same before the same is delivered.

Damages and costs, how estimated.

Time within which must be claimed.

Advertisement.

SECTION 4. In case said stock is not claimed and all just charges are in accordance with this act satisfied within thirty days, the person having said stock in charge shall advertise the same at public sale by not less than three written or printed notices, posted for at least ten days previous to said sale in three conspicuous places in the district in which said stock was taken up, at the expiration of which time they shall proceed to sell the same, the proceeds of which sale, after deducting all just charges, shall be deposited with some justice of the peace in said county, who shall hold the same for one year, if not sooner claimed by some person who shall prove to his satisfaction that they are the real owner of said stock; if not so claimed, it shall be subject to and paid over on the order of the clerk of the school district in which said stock was taken up, to be devoted to the school purposes of said district.

Sale.

Proceeds, how disposed of.

If not claimed, to be paid to School District.

Passed at Dover, April 9, 1869.

OF THE GENERAL POLICE.

CHAPTER 444.

OF DITCHES.

An Act concerning the Draining of Swamps and Low Grounds, and to Facilitate the Laying Out and Opening of Public Ditches.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever one or more of the owners of any low grounds shall desire to drain the same, the Superior Court shall, on their petition, appoint three commissioners, who shall view the premises, and if they shall deem it proper lay out ditches for that purpose. Order to lay out ditches.

SECTION 2. *And be it further enacted.* That the commissioners shall take with them a competent surveyor, shall specify the courses, distances and sizes of every ditch they shall lay out, the estimated costs of making the same, the damages, if any, and to whom payable, and the proportion which each person benefited shall pay. They shall make return in writing, with a plot showing by general delineation without survey the boundary lines of the low grounds and of each taxable's portion thereof, or of any land benefited and the estimated number of acres. The commissioners and surveyor shall be sworn to the faithful and impartial discharge of their duty. All must act, but a majority may decide any matter. Manner. Return. Plot. Oath.

SECTION 3. *And be it further enacted,* That the commissioners shall award to any person who will be injured by the making any such ditch, damages to the amount of such injury, and the same shall be paid or tendered before cutting the ditch. Damages. When paid or tendered.

SECTION 4. *And be it further enacted,* That all persons who will be benefited by such ditch shall be liable to contribute to the cost of making the same and to the damages awarded and the expense of the proceedings. The commissioners shall determine who will be benefited, and shall apportion the same upon them according to such benefit. Who liable to contribute. Apportionment.

OF THE GENERAL POLICE.

Orders of review.

SECTION 5. *And be it further enacted,* That the court may, before confirmation of the return, grant orders of review on the application of any party interested, and such order of review must be executed and returned to the next term of the said court on the first day thereof.

When returned.

Bridges.

SECTION 6. *And be it further enacted,* That if any public road crossed by such ditch will be benefited so that the public ought to make and maintain the bridge over the same, the commissioners shall so state in their return, and such bridge shall then be made and kept up at the public charge.

Meeting of contributors

SECTION 7. *And be it further enacted,* That the commissioners making any return that shall be confirmed shall, within one month after confirmation, convene the persons liable to contribute to any ditch embraced therein for the purpose of choosing two managers and a treasurer of the ditch, to serve for one year and until others are chosen. Notice of the time and place of this meeting shall be posted in four public places of the neighborhood six days before the meeting. The taxables shall at this meeting fix the place for holding meetings thereafter. The managers, or if one of said managers be dead, or has removed from the county, or refuses to act, then the other manager, or if both of said managers be dead, or have removed from the county, or refuse to act, then the treasurer shall annually thereafter in the same manner call a meeting for the same purpose on the first Saturday in March, at one o'clock P. M. The managers and treasurer shall be chosen from among the taxables. At all meetings the taxables present shall be entitled to vote either in person or by proxy, duly executed under the hand and seal, and attested by two witnesses, in proportion as each is liable to contribute, that is to say: each taxable shall be entitled to one vote for every dollar of tax paid by him.

Managers and Treasurer.

Notice.

Annual meetings.

Voters.

Assessment lasts seven years.

SECTION 8. *And be it enacted as aforesaid,* That the return as confirmed by the court shall remain in force for seven years thereafter as the basis of any subsequent assessment that may be made by the managers for completing, cleansing or repairing the ditch or other necessary purpose, and until another order be granted by the court upon the application of one or more taxables to the court aforesaid. The commissioners appointed by the court for a new assessment may, if they deem it necessary, call to their assistance a surveyor.

Commissioners for new assessment may call a surveyor.

Managers' duty.

SECTION 9. *And be it further enacted,* That the managers chosen as aforesaid shall proceed to make and open ditches according to the return confirmed as aforesaid, or to cleanse and repair the same as may be necessary, and shall have all needful

OF THE GENERAL POLICE.

powers for that purpose. They shall keep regular accounts of all expenditures, and shall render the same to the yearly meeting of the taxables. All payments shall be made by orders drawn by them on the treasurer. Any person assessed for a tax may discharge the same by work done by direction of the managers, and their certificate shall be received by the treasurer in payment of the tax.

Accounts.

Orders.

Payment of tax by work

SECTION 10. *And be it further enacted,* That the treasurer shall collect all sums assessed as aforesaid, and shall have the same power herein as a collector of county rates. He shall give bond to the taxables with surety, to be approved by the managers in double the amount of the assessment which he may be authorized to receive, conditioned for the faithful performance of his duty and for the payment to his successor of any money due from him; to which said bond and condition shall be annexed a warrant or power of attorney to confess judgment thereon in the usual form. And if the person so appointed treasurer shall neglect or refuse to give bond as aforesaid, within thirty days next after his appointment, the said managers may thereupon appoint another treasurer, who shall in like manner give bond as aforesaid, and so on until a treasurer be appointed who shall give bond and security as hereinbefore provided. He shall settle with the taxables at their annual meeting, and shall be entitled to retain five per cent. on the amount received as compensation.

Treasurer's power to collect taxes.

His bond.

Effect of neglect to give bond.

Settlements.

His fees.

SECTION 11. *And be it further enacted,* That any person taxed for a ditch which does not pass through his lands may, at his own expense, open and keep open cross ditches into the same: *Provided* that such cross ditches shall not be cut through the land of any other person without his consent, unless it shall be laid out and the damages assessed by the commissioners appointed to lay out the main ditch, or other three commissioners to be appointed by the Superior Court, as is hereinbefore provided for the appointment of original commissioners for that purpose. The person applying for such cross ditch shall pay all costs of making and opening the same, and shall also, before making it, pay or tender all damages awarded, but any person benefited by such cross ditch shall contribute and pay so much of such damages, costs and expenses as the commissioners shall determine to be his fair proportion thereof.

Cross ditches how cut.

Proviso.

Cost.

Contribution

SECTION 12. *And be it further enacted,* That the ditches so opened shall remain open for the benefit of those liable to contribute therefor. If any person shall stop up or obstruct any ditch cut under this chapter he shall forfeit and pay to the managers for the use of the ditch not less than twenty nor more than one hundred dollars.

Ditches to remain open.

Penalty for obstructing.

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Of the right to remove obstructions

SECTION 13. *And be it further enacted,* That it shall be lawful for any person or persons who may be taxables or interested in any public ditch heretofore made or hereafter may be made and laid out by any act of the Legislature of this State or under the act of Assembly in such case made and provided for the draining of low grounds, either by themselves or by such persons as they may employ, to enter upon the lands of any person through which any such ditch or ditches may pass, and remove any obstruction or obstructions, of whatever nature or kind the said obstructions may be, which may exist in said ditch or ditches, so that the water may pass through the same.

Penalty for hindering the removal of obstructions.

SECTION 14. *Be it further enacted,* That if any person or persons through whose lands said ditch or ditches may pass should hinder or prevent any person or persons so interested as aforesaid, or those whom they may employ, from entering upon said land to remove any obstructions which may exist in said ditch or ditches, such person or persons so hindering or preventing the removal of such obstructions shall forfeit and pay the sum of one hundred dollars besides the costs of suit, to be sued for and recovered by any of the taxables upon said ditch before any justice of the peace in and for said county where the said ditch may be situate.

Who to pay the expense of removing obstructions occasioned by negligence.

How recovered.

SECTION 15. *Be it further enacted,* That if any obstructions should exist in any such ditch or ditches so as aforesaid made, occasioned by the fault or neglect of any person or persons, such person or persons so hindering or preventing the free passage of the waters through said ditches shall be liable for the expenses and charges to which any of the said taxables shall be subject in removing the same, to be sued for and recovered by any of the taxables upon said ditch before any justice of the peace in and for said county where the said ditch so obstructed may be situate.

To what ditches the act shall apply.

SECTION 16. *And be it further enacted,* That this chapter shall apply to all ditches laid out or to be laid out under any order of court for completing, extending, enlarging or cleansing thereof, but it shall not conflict with nor be construed to alter any special law for ditching or draining low grounds.

Vacancies.

SECTION 17. *And be it further enacted,* That if any commissioner appointed under this chapter shall die or be unable to act, the associate judge of the county in vacation shall appoint another in his place.

Fees. Commissioners. Managers.

SECTION 18. *And be it further enacted,* That the fees under this chapter shall be to each commissioner two dollars per day; to the managers each day actually spent in the discharge of their

duties one dollar; to the surveyor three dollars per day, and such reasonable sum as shall be agreed upon by the parties or taxed by the court for plot and report; to the Prothonotary for order certified under seal one dollar; for the confirmation of a report fifty cents. Surveyor. Prothonotary.

SECTION 19. *And be it further enacted,* That all other acts and parts of acts inconsistent with this act be and the same are hereby repealed. Inconsistent acts repealed.

Passed at Dover, March 4, 1869.

CHAPTER 445.

OF THE DRAINING OF LOW LANDS.

An Act to provide for Draining and Improving certain Low Lands in Sussex county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever six or more owners of any lands in Sussex county shall deem it desirable and important for the benefit and improvement thereof that any mill-pond adjacent to or in the vicinity of the same should be permanently drained and abolished as a serious injury thereto, and of less value than detriment to the neighborhood generally in which it is located, they shall for the purpose of permanently draining, removing and abolishing such mill-pond be entitled to present their petition to the Supe- Owners of land may petition Superior Court to drain certain mill ponds.

rior Court of the State of Delaware, in and for said county, to that effect, and the said Court on such petition shall appoint three commissioners, who shall view the said lands, mill-pond and premises, and if they shall deem it proper that such mill-pond should be permanently drained and abolished they shall proceed to estimate and appraise the said mill, mill-seat, mill-pond and premises, with all the rights, easements and privileges incident thereto, at their just and true value in money to the owner or owners thereof, and shall also take with them a competent surveyor, and make return in writing to the said court, with a plot showing by general delineation without actual survey the bounding lines of the lands adjacent thereto or flooded and affected thereby, and of each owner's portion thereof, and of all land and property below the same that will be benefitted, improved or enhanced in value by the permanent drainage thereof, and estimate and state the number of acres owned by each of such persons.

Commissioners.

Appraisement.

Surveyor.

Return.

Plot, what to show.

SECTION 2. *And be it further enacted by authority as aforesaid,* That if the said commissioners shall deem it proper that said mill-pond shall be permanently drained and abolished, they shall, after estimating and appraising the value of the said mill-pond, mill, mill-seat and premises, with all the rights, easements and privileges incident thereto as aforesaid, award to the owner or owners thereof damages to the amount of the just and true value thereof in money and to the full amount of the injury and loss which he or they will sustain thereby. They shall also estimate and determine the proportions in which the persons owning the said lands and property to be benefitted, improved and enhanced in value as aforesaid will be respectively benefitted by the permanent draining of the said mill-pond, and the amount in money which they shall respectively contribute and pay therefor, and all persons who will in their judgment be benefitted as aforesaid thereby shall be liable to contribute to the damages so assessed as aforesaid to the expense of permanently draining said mill-pond, and the cost of all proceedings under this act, and all of which shall be included and stated in their return to the said court.

Damages of owners of mills, &c.

Estimation of benefit to land owners.

Contribution of land owners.

Cost of proceedings.

SECTION 3. *And be it further enacted by authority as aforesaid,* That if the owner or owners of said mill-pond shall not be satisfied with the valuation thereof so returned, or be unwilling to accept the same and allow the said mill-pond to be drained as aforesaid, he shall apply to the said court on the return of the said commissioners, and at the first term thereof, for an order in the nature of a writ of inquiry, to ascertain by the verdict of a jury at the bar of the said court the just and true value of the

Mill owners may apply for writ of inquiry.

Jury to ascertain damages.

OF THE GENERAL POLICE.

said mill-pond, mills, mill-seat and premises, with all the rights, easements and privileges incident thereto, and the amount of the damage, injury and loss which he or they will sustain by reason of the permanent draining of the same, and if applied for by him or them the court shall order a view of the said premises by the said jury, after they have been qualified, and before they have rendered a verdict thereon. And the verdict rendered shall be final and conclusive as to the valuation thereof, unless set aside by the court for legal cause.

View of premises by jury.

Verdict final

SECTION 4. *And be it further enacted by authority as aforesaid,* That the said court may, before confirmation of the said return, grant orders of review in the case on the application of any person interested therein by reason of any sum which he may be returned as liable to contribute and pay for draining the said pond as aforesaid.

Orders of review.

SECTION 5. *And be it further enacted by authority as aforesaid,* That on confirmation of said return the commissioners making the same shall, within one month thereafter, convene the persons liable to contribute and pay as aforesaid for the purpose of choosing two managers and a treasurer of their number, to serve for one year and until their successors are chosen, to execute the objects of the said petition and application, and the time and place of such meeting shall be duly notified by advertisements posted six days anterior to it in four of the most public places in the neighborhood of the said lands and premises. The said managers shall annually thereafter, in the same manner, call a meeting for the same purposes on the first Saturday in March, until they are fully accomplished and completed, and at all such meetings the persons liable to contribute and pay as aforesaid, shall be respectively entitled to vote one vote for every dollar he or she is so liable to contribute and pay and has contributed and paid for the said purpose.

Meeting of contributors—when.

To choose Managers and Treasurer.

Term.

Notice of meeting.

Annual meeting of contributors

When.

Who entitled to vote.

SECTION 6. *And be it further enacted by authority as aforesaid,* That on confirmation of the return by the said court, the same shall have perpetual force and effect from and after the payment in full to the owner or owners of said mill-pond, property and premises of the sum so awarded by the return or the verdict of the jury as hereinbefore provided for; and in case such owner or owners shall be unwilling and refuse to receive the same when tendered to him, the amount shall be deposited to the credit of such person or persons in said court. And the said managers chosen as aforesaid, as soon as the said treasurer shall have paid or deposited the sum so awarded as aforesaid, shall proceed to effectually and permanently drain and discharge the water from said mill-pond and to prevent the damming or accumulation of

Effect of confirmation of return by Court.

Refusal of owners to receive damages.

To be deposited in Court.

Duties of managers.

OF THE GENERAL POLICE.

any water thereafter in said pond; and they shall be clothed with all the powers necessary and proper for these purposes, and all payments therefor shall be made by order drawn by them on the treasurer, who shall collect all the sums assessed and apportioned and to be contributed and paid as aforesaid, and have the same powers for that purpose as a collector of county rates by law has, and shall keep a regular and correct account of all moneys received and expended by him, and give bond to the persons so liable to contribute and pay as aforesaid, with surety to be approved by the managers in double the amount of the whole sum to be collected by him, for the faithful performance of his duty and the payment to his successors of any money due from him; he shall settle with the persons to whom it is given at the annual meeting, and be entitled to retain five per centum on the amount received by him as compensation for his services.

Payments, how made. Treasurer to collect sums assessed. Powers of Treasurer. Account Bond. Settlement, when. Compensation.

SECTION 7. *And be it further enacted by authority as aforesaid,* That any obstruction to the natural flow of or damming up of the waters in the said mill-pond afterwards by any person shall constitute in law a public nuisance, and may be punished and remedied as such.

Obstruction of waters a public nuisance.

SECTION 8. *And be it further enacted by authority as aforesaid,* That all commissioners appointed under this act shall be duly sworn or affirmed according to law before entering upon the duties of their office, to perform the same honestly, faithfully and impartially, and if any of them should die or be unable to discharge the duty enjoined upon them, any judge of the Superior Court of said State shall have authority in vacation to appoint another in his place. And the fees under this chapter shall be: to each commissioner two dollars per day; to the managers each two dollars per each day actually spent in the discharge of their duties; to the surveyor such reasonable sum as shall be agreed on by the parties or taxed by the court; to the Prothonotary for order certified under seal one dollar; for confirmation of a report fifty cents.

Oath of commissioners. Vacancies. Fees.

Passed at Dover, April 6, 1869.

OF THE GENERAL POLICE.

CHAPTER 446.

REST'S MILL.

An Act to Condemn and Purchase at their fair and just value Rest's Mill-Dam, Pond and Premises, for the Benefit and Improvement of the Swamp Land and Low Grounds Flooded and Damaged thereby in Nanticoke and Cedar Creek Hundreds, in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William A. Scribner, James H. Deputy and Alfred Short be and they are hereby appointed commissioners, and full power is hereby given them to go upon and view any swamp lands and low grounds situated in Cedar Creek and Nanticoke hundreds, Sussex county, that are in anywise flooded or injured by obstruction at any time in the natural flow and drainage of the water therefrom, occasioned by the mill-dam and mill-pond appurtenant to the mill, mill-seat and property situated in Nanticoke hundred aforesaid and formerly called and known by the name of "Russel's," but more recently called and known as "Rest's Mill," and to ascertain the owners of such swamp lands and low grounds, and to what extent they are respectively injured by reason of such obstructions, and to what extent they will be respectively benefitted by the perpetual removal of the same, and also to view the said mill, mill-seat, mill-dam, mill-pond and property and premises appurtenant thereto, and ascertain the owner or owners and the just value thereof, with all the rights and privileges appertaining to the same, in money, and estimate, appraise, ascertain and determine the actual loss and injury which he or they will sustain by reason of the perpetual removal of such obstructions at their fair and just measure in money, with due regard to the value of all such property before and after such removal as aforesaid; and thereupon to ascertain, assess and fix the amount in money which the owners of the said swamp lands and low grounds shall respectively contribute and

Commissioners.

To view certain lands.

To ascertain to what extent owners of land are injured.

Benefit to land owners by removal of mill, &c.

Injury to mill owners.

Contribution of land owners.

OF THE GENERAL POLICE.

pay to make up the amount so appraised and ascertained by them as the measure in money of the loss and injury which in their judgment the owner or owners of said mill and property will sustain by reason of the removal of the obstructions aforesaid, according to the benefit which the owners of said swamp lands and low grounds will respectively derive from the removal of the same, together with such further sum as shall be sufficient to pay in addition thereto all costs and expenses that may be attendant upon any and every proceeding under this act, and when all as herein provided for has been performed by them, they shall have authority to appoint a collector to collect the sums so assessed as aforesaid, and shall make return of the same to the Prothonotary of the Superior Court in and for the said county, who shall file and preserve the same among the records of the said court.

Costs.

Collector.

Return.

To be filed in Prothonotary's office.

SECTION 2. *And be it further enacted as aforesaid,* That the collector appointed pursuant to the foregoing provisions of this act, before entering upon the duties of the office, shall give bond in such sum and with such security as the commissioners shall approve to them, conditioned for the faithful discharge of the trust reposed in and of the duties imposed upon him by this act, and he shall have like authority and powers to collect all the sums of money assessed under this act which the collectors of taxes assessed on ditches have under the law of this State, and when collected the same shall be immediately tendered by him to the owner or owners of said mill, and if accepted by such owner or owners he shall at once proceed to completely and permanently remove everything from the said mill-dam, mill-pond and property that shall impede or obstruct in any manner the natural drainage and flow of water from said swamp lands and low grounds, or that may have any effect or tendency to collect, hold and dam up the same in the said mill-pond.

Bond of Collector.

Powers.

To pay money collected to mill owners.

Removal of mill dam.

SECTION 3. *And be it further enacted as aforesaid,* That if the owner or owners of the said mill and property shall not consent to accept the said sum when so tendered to him or them, as hereinbefore provided for, it shall be incumbent upon such owner or owners within ten days thereafter to sue out of the said Superior Court a writ of *ad quod damnum,* addressed to the sheriff of said county, commanding him to assess, by a jury of twelve good men of his bailiwick, the damages that will be sustained by such owner or owners of the said mill and property as aforesaid by reason of the removal of the said obstructions as aforesaid, which writ when executed shall be returned with his doing thereon endorsed, and the verdict of the jury, by the said sheriff at the ensuing term of said court in said county. And if the said

Refusal of mill owners to accept damages.

Ad quod damnum.

Return.

When.

owner or owners last mentioned shall not accept the amount of the appraisement of said commissioners when tendered by the said collector, and shall afterwards fail within ten days thereafter to sue out said writ of *ad quod damnum* as aforesaid, then and in that case the said collector shall have full power and authority to remove the said obstructions as hereinbefore provided for, and if such writ should be sued out and executed, then, on tendering the amount of the verdict thereon found to the owner or owners last mentioned, he shall have the same authority and power to remove the said obstruction as is hereinbefore provided.

Failure of mill owners to sue out writ.

Collector to remove obstructions.

If amount of verdict tendered owners, Collector to remove obstructions.

SECTION 4. *And be it further enacted as aforesaid,* That when the said obstructions have been removed as is hereinbefore provided for, it shall be unlawful for any one thereafter to continue, replace or restore them, or in any manner whatever to impede or obstruct thereby the natural flow and drainage of water from said swamp lands and low grounds, or to dam up the water in any degree in the said mill-pond again, or even to raise or increase the water in the mill-pond next below it on the same stream higher than it may at this time be lawfully raised in such lower mill-pond, and any violation of the provisions of this section shall constitute in law a public nuisance and be indictable and punishable as such.

Unlawful to obstruct water on land.

Not to raise water in lower pond.

Public nuisance

SECTION 5. *And be it further enacted as aforesaid,* That the commissioners herein named and appointed, before entering upon the duties assigned them, shall be severally sworn or affirmed in the due form of law to discharge the same with impartiality and fidelity; and the fees of the said commissioners shall be the same as are now allowed by law to commissioners appointed by the Orphans' Court to make partition of intestate real estate, and of said collector the same as are now allowed by law to collectors of county taxes, and this shall be a public act and be published as such.

Oath of commissioners.

Fees of commissioners.

Fees of Collector.

Public act.

Passed at Dover, February 15, 1869.

OF THE GENERAL POLICE.

CHAPTER 447.

CONCERNING ROADS AND BRIDGES.

Rev. Code, 168. *An Act to amend Chapter 60 of the Revised Statutes of the State of Delaware, concerning Roads and Bridges.*

Sec. 4, Chap. 60, amended. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following words, beginning at the third line of Section 4, Chapter 60 of the Revised Statutes of the State of Delaware, to wit: "unless they have been laid out by special act of assembly," be repealed and the same are made null and void.

Roads, laid out, how; changed.

Passed at Dover, March 12, 1869.

CHAPTER 448.

DRAWBRIDGE OF NANTICOKE RIVER.

Volume 12, page 643. Preamble. | Sec. 1. Chapter 563 amended. How.

An Act to amend an Act entitled. "An Act to authorize the Levy Court and Court of Appeal of Sussex county to purchase or acquire the Drawbridge over the Nanticoke River at Seaford, for the purpose of making the same a public and free bridge," passed at Dover, March 17, 1865.

Vol 12, page 643.

Preamble. WHEREAS it hath been represented to this General Assembly that since the passage of the said act Hugh Martin, Sr., hath died without having sold the said drawbridge and causeway to the said Levy Court and Court of Appeal of Sussex county, therefore,

Chap. 563 amended. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled, "An act to authorize the Levy Court and Court of Appeal of Sussex county to purchase or acquire the drawbridge over the Nanticoke River at Seaford, for the purpose of making the same a public and free bridge," passed at Dover, March 17, 1865, be and the same is hereby amended by substituting for the name of "Hugh Martin," wherever the same may occur in said act, the words following, to wit: "the widow, trustees and devisees of Hugh Martin, Sr., deceased."

How.

Passed at Dover, March 18, 1869.

OF THE GENERAL POLICE.

CHAPTER 449.

BRIDGE OVER BROAD CREEK.

An Act to amend Chapter 151, *Thirteenth Volume, Part* 2. *Delaware Laws.* Current Vol. 144

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all acts and parts of acts inconsistent with this act are hereby repealed, made null and void, and the Levy Court and Court of Appeal in and for Sussex county be and they are hereby authorized, whenever in their judgment the bridge across Broad Creek, at the town of Laurel, erected under the provisions of the act entitled, "An act to provide for the erection of a public bridge across Broad Creek in the county of Sussex," passed at Dover, January 16, A. D. 1798, becomes unsafe and an obstruction to the navigation of said creek, to abate, remove, or to have abated or removed, said bridge and causeways.

Inconsistent acts repealed

Levy Court authorized to remove the bridge erected under the act of Jan. 16, 1798.

Passed at Dover, April 5, 1869.

CHAPTER 450.

CONCERNING MILLS.

An Act to amend Chapter 61 *of the Revised Code, (as amended.)* Rev. Code, 180. 11 Vol. 619.

Be it enacted [*by the Senate and House of Representatives of the State of Delaware in General Assembly met,* SECTION 1.] That Chapter 61 of the Revised Code be and the same hereby is amended as follows, by adding thereto the following section:

Additional section.

SECTION 5. That whenever earth, sand, gravel, stone or other material requisite for the construction or repair of any lawful dam shall lie contiguous or adjacent to such dam, it shall and

Sand, &c., for the construction or repair of dam.

may be lawful for the owner or owners of such dam to proceed by petition, setting forth the facts, to the Court of General Sessions of the Peace and Jail Delivery of any county in term time, or to any judge thereof in vacation, upon ten days' notice to the owner or owners of such earth, sand, gravel, stone or other material, if resident within the State, or if non-resident, to the tenant residing upon the premises. And the said court, or any judge thereof, shall thereupon by order appoint five disinterested freeholders of the county, commissioners, directing them to go upon the premises described in the said petition and assess the value of such earth, sand, gravel, stone or other material stated in the said petition to be required as aforesaid, and also to determine the damages sustained by the owner or owners thereof by reason of taking the same, and make return thereof under their hands or the hands of a majority of them, which return shall be forthwith filed in the office of the clerk of the said court in the county wherein the said proceedings shall take place, and upon the amount of damages so as aforesaid being paid unto the person or persons entitled, or deposited to their credit in the Farmers' Bank of the State of Delaware, or in any branch thereof in the county where the said proceedings shall have been commenced, it shall and may be lawful for the owner or owners of such dam to enter in and upon the premises described in the said petition, containing such earth, stone, sand, gravel, or other material, and take and remove and use the same for the construction or repair of their said dam; *Provided*, that if either party be dissatisfied with the amount of damages awarded, that upon notice as aforesaid and petition filed within thirty days after the said return of the commissioners, the said court or any judge thereof shall grant an order of review and appoint five other freeholders as aforesaid, who shall review the premises and re-assess the damages and make return as aforesaid.

Petition. Notice. Commissioners. Assess value and damages. Return. Where filed. Payment of damages. Entry. Order of review.

If greater damages are allowed than were given on the first order, such increase shall be forthwith paid or deposited as aforesaid by the owner or owners of the dam, and if less damages shall be allowed, the difference between the sums so awarded shall be refunded. The costs of such review to be borne by the unsuccessful party; *Provided*, that proceedings for a review shall not delay the right of the owner or owners of the dam to take and use the material in question in the repair or construction of such dam, after having paid or deposited the amount first awarded as aforesaid.

Increased damages. Decreased damages. Costs of review. Proviso.

SECTION 6. That if at any time a breach in the banks of any stream upon which a lawful dam shall exist, shall occur by reason of flood or from any other cause whereby the usual vol-

Of the damage to the banks of streams.

ume of water shall be diverted from its customary channel to the injury of the owner or owners of such dam and water power, that it shall and may be lawful for such owner or owners to enter in and upon the lands where such breach shall have occurred and whenever it may be necessary to repair the same, and all damages which may occur unto the said premises by reason of such entry and repair shall be assessed upon the application of either party in interest in the mode appointed in the next preceding section and subject to the same provisions as to payment or deposit and review.

Passed at Dover, January 26, 1869.

CHAPTER 451.

GENERAL PROVISIONS RESPECTING TRADE.

An Act to amend Chapter 63 *of the Revised Code.* Rev. Code, 183.

[SECTION 1.] *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 63 of the Revised Statutes be and the same is hereby amended by inserting the words "by writing" in the eleventh line of the seventh section, next after the word "authorized" and before the word "except." Sec. 7, Chap. 63, amended How.

Passed at Dover, March 4, 1869.

CHAPTER 452.

WILMINGTON BOARD OF TRADE.

An Act to incorporate the Wilmington Board of Trade.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, two-thirds of each branch thereof concurring,

SECTION 1. That Edward Betts, Francis Barry, George W. Stone, James Bradford, Joshua T. Heald, Casper Kendall, George Richardson, George W. Bush, Victor Du Pont, Howard M. Jen- Incorporation.

kins, Baudey Simmons, E. Tatnal Warner, Jr., Washington Jones, Henry B. Seidel, William M. Kennard, George G. Lobdell, Lea Pusey, James Morrow, James Lewis, Eli Garret, Charles Moore, William G. Gibbons, Henry F. Finnegan, Jr., Edward McInall, Caleb P. Johnson and William H. Swift, and such other persons as are now or may hereafter be associated with them, be and they are hereby constituted a body corporate under the name and style of The Wilmington Board of Trade, and by that name shall have succession for twenty years, with power to sue and be sued, plead and be impleaded in all courts of law and equity, to have and use a common seal and the same to alter and renew at pleasure, to take, hold, grant, bargain, sell, lease and convey lands, tenements, hereditaments, goods, chattels, rights and effects of any kind, to ordain and establish by-laws and regulations not inconsistent with the constitution and laws of the United States or of this State, and generally to exercise and enjoy all the rights and privileges incident to a corporation aggregate except banking powers.

Name.

Powers.

Business, how conducted.

SECTION 2. The business of the said corporation shall be conducted and managed by such officers and in such manner as the constitution and by-laws may direct.

Port Wardens.

Duties

SECTION 3. The managers of the said corporation may appoint one or more port-wardens, who shall hold office during the pleasure of the managers. The said port-wardens, or any of them, may, upon the application of the master or owners of any vessel, or the shipper or consignee of any cargo coming into port in a damaged condition, view the said vessel or cargo and certify to the underwriters, or other parties interested, the extent and character of the said damage, and may perform such other duties as are usually discharged by such officers; the said officers shall receive no compensation other than that fixed by the board of managers aforesaid, which shall be paid by the party requiring the service; *Provided*, that the said board of managers shall have no power or authority to fix any compensation to be received by said officers unless the service is actually performed, and that the said master or owner of any of said vessels may refuse or accept such service as to him or them may seem proper.

Compensation.

Proviso.

Public act.

SECTION 4. This act shall be deemed to be a public act and the right to revoke the same is hereby reserved to the Legislature.

Passed at Dover, January 29, 1869.

RESPECTING TRADE.

CHAPTER 453.

LUMBER INSPECTOR.

An Act to provide for the appointment of a Lumber Inspector for the Town of Laurel.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That annually, at the March session of the Levy Court and Court of Appeals in and for Sussex county, there shall be appointed by said court an inspector of lumber in and for the town of Laurel, Little Creek Hundred, Sussex county, whose duty it shall be to measure and inspect the quality and quantity of the lumber brought under his notice and render his services whenever and only when called upon by one or more of the contracting parties in a purchase or sale of lumber; he shall be furnished with the order or contract, and such lumber as passes his inspection he shall mark as approved, and his approval shall be evidence that the order is filled according to contract.

Levy Court of Sussex Co. authorized to appoint Lumber Inspector for Laurel.

His duties.

SECTION 2. *And be it further enacted,* That should the said inspector resign or die during his term of office, the Levy Court Commissioners of said hundred for the time being shall appoint another person to fill such vacancy, who shall serve until the next March session of said Levy Court. He shall receive as fees twenty-five cents per thousand feet when the amount inspected at said rates will amount to more than two dollars; in no case shall he receive a less sum than one dollar for any one inspection. He shall, before entering upon the duties of said office, first be sworn or affirmed to discharge the same faithfully and impartially.

Vacancies, how filled.

Compensation.

Oath of office

Passed at Dover, March 9, 1869.

OF TITLES TO REAL PROPERTY.

CHAPTER 454.

RECORDING DEEDS.

A further additional Supplement to the Act entitled, "An act to extend the time for Recording Deeds."

Time for recording deeds extended to 1871.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all deeds or letters of attorney concerning lands, tenements or hereditaments, sealed and delivered on or before the first day of January, one thousand eight hundred and sixty-nine, first being acknowledged or proved and the acknowledgment or proof certified to according to the laws of this State in force at the time when such acknowledgment or proof was made, may, with the certificate of acknowledgment or proof and all endorsements and annexations, be recorded in the office for recording of deeds in the county wherein such lands, tenements and hereditaments or any part thereof are situated, if lodged in such office on or before the first day of January in the year of our Lord one thousand eight hundred and seventy-one, and the said record or a copy thereof shall be sufficient evidence, and from and after the said first day of January, in the year of our Lord one thousand eight hundred and seventy-one, no deed or letter of attorney sealed before the first day of January, in the year of our Lord one thousand eight hundred and sixty-nine, shall be recorded.

Passed at Dover, January 12, 1869.

CHAPTER 455.

OF JOINT ESTATES AND PARTITION.

Rev. Code, 286.
SEC. 1. Addition to Section 14, Chapter 86.

SEC. 1. Chancellor may direct sale of Joint Estates to be made upon credit.

Rev. Code, 286.

An Act supplementary to Section 14 *of Chapter* 86 *of the Revised Statutes of this State, relating to sales of Real Estate of Joint Tenants or Tenants in Common.*

Addition to Sec. 14, Chap 86.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in any order hereafter to be granted for the sale of real estate of

joint tenants or tenants in common, the Chancellor may, in his discretion, direct such sale to be made upon credit, either as to the whole or part of the purchase money, the payment of the purchase money to be at such time or times and to be secured in such manner as the Chancellor, by the order of sale or otherwise, shall prescribe, and the Chancellor shall have full power and authority to order and direct all such acts and proceedings touching the execution of a deed to the purchaser, and the securing, collection and distribution of the purchase money, as he may deem necessary the better to effectuate the object of this act.

Chancellor may direct sale of joint estates to be made upon credit.

Passed at Dover, April 6, 1869.

CHAPTER 456.

OF LIENS AGAINST INTESTATE REAL ESTATE HELD IN COPARCENARY.

An Act for the benefit of persons holding Liens against the Shares of Coparceners in intestate Real Estate.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, as follows, to wit:

SECTION 1. Liens, whether by judgment, mortgage, recognizance, or foreign attachment, begun against the share of a party entitled to intestate real estate, either as heir-at-law or purchaser, shall be preserved against the share of any recognizance to which such party is now or by proceedings hereafter to be taken may become entitled in proceedings for partition; *provided always*, that no legal priority of lien shall be affected thereby, and generally the said court shall have all necessary powers in the premises and may make all such orders or rules to reach the end aimed at by this act as may be by said court deemed proper.

Liens to be preserved against the shares of the recognizance

Proviso.

SECTION 2. Upon petition by either the recognizor, the party entitled to a share of the recognizance, or by any creditor hold-

Petition.

ing a lien against such share as aforesaid, the Orphans' Court of the county, or any judge thereof at chambers, shall order a summons for all the other parties interested, returnable before said court or judge at some time in said summons specified, and upon the return of such summons said court or judge shall, by such proceedings as may be deemed necessary or expedient, ascertain or determine the amount due on the several and respective liens against such share, and shall thereupon cause to be entered upon the record of the recognizance an order determining the amount of each of said liens and the relative priorities of said liens if more than one. Any order so made and entered shall be final and conclusive as to the amounts and priorities of the liens respectively, and thereupon the several creditors holding such liens shall become parties entitled under said recognizance according to the respective amounts and priorities of their liens to receive, collect, sue for and recover the amounts so ascertained to be due to them respectively, and payment by the recognizor of any such lien shall be a discharge *pro tanto* of the shares in the recognizance affected by such lien.

Summons.

Proceedings upon return.

Order final.

Rights of creditors.

Payment by recognizor.

Certificates of liens

SECTION 3. No summons shall be ordered pursuant to Section 2 of this act until the petitioner shall have filed in the office of the Clerk of the Orphans' Court, with his petition, certificates by the proper officers showing all liens affecting the share of the coparcener in the lands and premises sold as aforesaid, together with his affidavit that he had used due diligence to ascertain the names of all persons holding such liens, and that to the best of his knowledge and belief the certificates filed show all such liens. The court or judge shall have power at any time, pending a proceeding under this act, to order a summons for any person interested who may not have been originally summoned, and any person interested and not originally summoned may without being summoned become a party by petition.

Affidavit.

Of power to issue summons pending proceedings.

Of the proceedings when party interested resides out of the county.

SECTION 4. If a party interested in any proceeding under this act reside out of the county, service or publication of a summons as to such party shall be made as the court or judge shall direct. If the proceeding be before a judge at chambers, such judge may reserve any controverted claim, or any question of fact or of law involved in such proceeding, for consideration by the court when in session, and the decision of the court upon such question shall be final.

Reserved questions.

Passed at Dover, April 6, 1869.

OF THE ADMINISTRATION OF ESTATES.

CHAPTER 457.

OF THE SALE OF LANDS BY EXECUTORS AND ADMINISTRATORS.

Rev. Code, 309.
SEC. 1. Supplement to Section 4, Chapter 9.

SEC. 1. Of the widow's interest in the proceeds arising from Executors' or Administrators' sale to pay debts.

An Act Supplementary to Section 4 of Chapter 90 of the Revised Statutes of this State, relating to Sales of Real Estate by Executors and Administrators. Rev. Code, 309.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That hereafter upon the return of a sale of real estate by any executor or administrator to pay the debts of the decedent, pursuant to Section 4 of Chapter 90 of the Revised Statutes of this State, in cases in which the widow of the decedent is entitled to interest on a share of the proceeds of sale as an equivalent for her dower the purchaser may, at his election, either secure such share pursuant to the provisions of the said section, or he may pay the same into the Orphans' Court, in which case the said share shall be invested or otherwise secured under the direction of the said court for the benefit of the parties interested in the same. Supplement to Sec. 4, Chap. 9. Of widow's interest in proceeds arising from Executor's or Administrator's sale to pay debts.

Passed at Dover, March 26, 1869.

CHAPTER 458.

OF THE ORPHANS' COURT.

Rev. Code, 323.
SEC. 1. Supplement to Section 22, Chapter 96.

SEC. 1. Sale of Minor's land may be made upon credit.

An Act Supplementary to Section 22 of Chapter 96 of the Revised Statutes of this State, relating to the Sales of the Real Estate of Minors. Rev. Code, 323.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in any order hereafter to be granted by the Orphans' Court for the sale of real estate owned by a minor or minors, the said court, may, in its discretion, direct such sale to be made upon Supplement to Sec. 22, Chap. 96.

Sale of minors' land may be made upon credit.

credit, either as to the whole or part of the purchase money, the payment of the purchase money to be at such time or times and to be secured in such manner as the court by the order of sale or otherwise shall prescribe, and the said court shall have full power and authority to order and direct all such acts and proceedings touching the premises as it may deem necessary the better to effectuate the object of this act. In case of orders already granted and not returned, the said court, at the return of the order, may apply the provisions of this act to sales made under such orders, provided that notice to that effect be given at such sales.

Passed at Dover, April 1, 1869.

CHAPTER 459.

OF THE INVESTMENT OF FUNDS BY THE COURTS.

An Act to Facilitate the Securing of Funds invested by the Courts of this State.

Mode of securing money invested.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for the Court of Chancery, or the Orphans' Court of either county in this State, in the securing or investing of a sum or sums of money under orders of said courts respectively, to cause to be taken for the same, in any case not otherwise provided for by law, a recognizance, bond or mortgage in the name of the State of Delaware, with condition for the payment of the money so to be secured in such manner and subject to such provisions as the court taking such recognizance, bond, or mortgage, shall order, to the end that the said money may be secured for the use and benefit of the person or persons who may be entitled to or interested in the same. Upon any recognizance, bond or mortgage so to be taken, a suit may be prosecuted to judgment and execution in the name of the State but for the use of any person or persons injured by the breach of such recognoizance, bond or mortgage pursuant to the provisions of Chapter 117 of the Revised Statutes of this State.

Proceedings by suit.

Passed at Dover, April 6, 1869.

OF JUSTICES OF THE PEACE.

CHAPTER 460.

TO PROVIDE FOR THE LOSS OF A JUSTICE'S RECORDS.

An Act to Provide for the Loss by Fire of the Records of William Hazzard, Esquire, one of the Justices of the Peace in and for Sussex County.

WHEREAS by the burning of the office of William Hazzard, Esquire, one of the justices of the peace in and for Sussex county, on the fourteenth day of February last, all the records and dockets of his office therein contained were destroyed; therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the relief of the parties interested in the same it shall be lawful in all cases for the plaintiff or plaintiffs in any judgment recorded before or rendered by William Hazzard, Esq., one of the justices of the peace of this State in and for Sussex county, prior to the fourteenth day of February, in the year of our Lord one thousand eight hundred and sixty-nine, and which since the recovery or rendition thereof has been accidentally destroyed by fire, whereon any writ of *fieri facias* or *venditioni exponas,* or other execution, has been issued prior to the said fire and which was not destroyed thereby but is yet in existence and can be found or returned to him by the constable having the same in hand, to sue out a writ of *scire facias* thereon from the said justice of the peace, at any time within one year from the date of this act, against the defendant or defendants therein, or their legal representatives in case of their death, and to obtain judgment thereon against such defendant or defendants, or their legal representatives as aforesaid, as in any other case, or writ of *scire facias* issued by a justice of the peace under the provisions of Section thirty, Chapter ninety-nine of the Revised Statutes of this State: *Provided* a writ of *scire facias* on any such judgment was not already by the constitution and laws of this State at the time when the same was destroyed as aforesaid.* Remedy provided for plaintiff in a judgment upon which execution has been issued, where the record of said judgment has been destroyed. Proviso.

SECTION 2. *And be it further enacted as aforesaid,* That when no writ of execution or *venditioni exponas* is in existence or outstanding in the hands of any constable, or can be found on any such judgment so destroyed as aforesaid, it shall be lawful for When no writ of execution is in existance on any such judgment,

*So enrolled.

the plaintiff may proceed as originally

the plaintiff or plaintiffs in any such judgment, at any time within one year from the date of this act, to recover and obtain judgment again on the original account, note or demand in such case against such defendant or defendants, or their legal representatives in case of their death, in the same manner as such original and destroyed judgment was obtained or recovered thereon, and in any proceeding before said justice of the peace to obtain or recover such a judgment a second time on any such account, note or demand, competent evidence of the prior existence and subsequent destruction of the same as aforesaid shall be admissible for the purpose of obtaining or recovering thereon as aforesaid a second time, and without proof of such destruction no writ of *scire facias* shall be issued and no judgment shall be rendered a second time on any such judgment, or on any such acccount, note or demand, as is hereinbefore provided for.

Passed at Dover, April 8, 1869.

CHAPTER 461.

OF PLEADING AND PRACTICE IN CIVIL ACTIONS.

Rev. Code, 376.

[*An Act further to amend Chapter* 106 *of the Revised Statutes.*]

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Sec. 4, Chap. 106 amended

SECTION 1. That the first paragraph of Section 4 of Chapter 106 of the Revised Statutes as amended, be further amended by adding to the end of said paragraph the following, viz: "Any affidavit authorized under the provisions of this chapter may be taken, out of this State, before any judge of any court of record, the mayor or chief magistrate of any city or borough, a commissioner of deeds for this State, or any consul or vice consul of the United States; such affidavit being certified under the hand and official seal, or seal of court, city, or borough, as the case may be, of the person taking the same.

Before whom affidavits may be taken out of the State.

Passed at Dover, March 16, 1869.

OF CIVIL ACTIONS IN GENERAL.

CHAPTER 462.

OATHS.

An Act to amend Chapter 108 *of the Revised Statutes of the State of Delaware.* Rev. Code, 383.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 108 of the Revised Statutes of this State be amended by adding thereto as the 9th Section thereof the following: "In all legal proceedings in this State wherein an oath or affidavit is required to be made by any person not residing in this State, such oath or affidavit may be administered and certified in the same manner and by the same persons as the laws of this State prescribe for taking the acknowledgment of deeds or the probate of accounts against a deceased person's estate where the said acknowledgment or probate is made out of this State.

Section added to Chap. 108.

Who, residing out of this State, may administer oaths.

Passed at Dover, January 25, 1869.

CHAPTER 463.

OF EXECUTION.

A Supplement to an Act entitled, "An Act to amend Section 36, *Chapter* 111 *of the Revised Statutes of the State of Delaware," passed at Dover, March* 25, 1863. 12 Vol. 360. Rev. Code, 393.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act to which this is a supplement be and the same is hereby amended in the last line of Section 1 by striking out the words "for the payment of debts;" also that said act be amended in the fifth and sixth lines of Section 2, by striking out the words "for the payment of debts," and that hereafter the said act shall be read and construed and in all future editions of the laws shall be printed as the same is herein amended.

Sections 1 and 2 of Chap. 324, Vol. 12, amended.

Writ of possession.

Passed at Dover, April 8, 1869.

OF CIVIL ACTIONS IN GENERAL.

CHAPTER 464.

MECHANICS' LIEN.

12 Vol. 181. *An Act to amend Chapter* 117 *of Volume* 12 *of the Laws of Delaware.*

[*Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:*

12 Vol. Chap 117, Sec. 1, struck out and supplied

SECTION 1.] Strike out the whole of Section 1 and insert in lieu thereof the following:

Who may obtain lien on building, &c.

SECTION 1. That it shall and may be lawful for any person or persons having performed or furnished work and labor, or materials, or both, to an amount exceeding twenty-five dollars, in or for the erection, alteration or repair of any house, building or structure, in pursuance of any contract, express or implied, with the owner of such house, building or structure, or with any contractor, architect or builder who may be engaged in the erection, alteration or repair of the same, to obtain a lien upon such building, house or structure, and upon the ground upon which the same may be situated or erected: *Provided* that the said person or persons shall file a statement of his or their claim, or demand, in the office of the Prothonotary of the Superior Court in and for the county wherein such building, house or structure is situated within six months from the completion of said work and labor or the furnishing of such material. The said statement shall contain and set forth:

Statement of claim to be filed.

Within what time.

Names of parties.

First. The names of the party, claimant and owner, or reputed owner of the building, house or structure, and also of the contractor, architect, or builder, and where the contract of the claimant was made with such owner or with such contractor, architect, or builder;

Place where contract was made.

Amount claimed.

Bill of particulars.

Second. The amount or sum claimed to be due, the nature and kind of the work and labor done, or a bill of particulars of the kind and amount of materials furnished;

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Third. The time when the said work and labor or the furnishing of said materials was commenced and finished; Time.

Fourth. The locality of the building, house or structure, with such description as may be sufficient to identify the same. Locality.

Fifth. That the said work and labor were performed, or the said materials furnished, on the credit of the said building, house or structure; Work done or materials furnished on credit of structure.

Sixth. That the amount of the said claim exceeds twenty-five dollars, and that the same has not been paid or secured to be paid to the claimant. The claimant shall make affidavit to the truth and correctness of the said claim and of the facts stated therein. Any judgment obtained upon such claim, as hereinafter provided, shall become a lien upon such building, house or structure, and upon the ground upon which the same is situated, erected or constructed, and shall relate back to the day upon which said work and labor was begun, or the furnishing of said material was commenced, and shall take priority accordingly. In every case in which one claim for work and labor, or materials, shall be filed by the same person or persons against two or more buildings, houses or structures owned, or building, altering or repairing by the same person or persons, the claimant shall, at the time of filing claim, designate the amount which he claims to be due to him on each of such buildings, houses or structures. Claim to exceed $25. Affidavit. Judgment to be lien on building, &c. and ground. To what time lien shall relate back. When claim filed against two or more buildings. To state claim against each building.

Nothing herein contained shall be construed to impair or otherwise affect the right of any person to whom any debt may be due for work and labor due or materials furnished to maintain any personal action against the owner, contractor, architect or builder of such building, house or structure to recover the amount of such debt. Not to affect personal actions.

Strike out Section 2 and insert in lieu thereof the following: Sec. 2 struck out.

SECTION 2. The proceedings to recover the amount of any claim as aforesaid shall be by a writ of *scire facias* in the following form, to wit: Proceeding by Scire Facias.

——— COUNTY, SS.

The State of Delaware to the Sheriff of said County, Greeting:

WHEREAS ——— hath filed a claim in our Superior Court for the County of ——— against ——— for the sum of ——— for (work and labor done or material furnished, as the case may be,) (to or for) a certain building, to wit: (describing it as in the claim): AND WHEREAS it is alleged that the said sum still remains due and unpaid to the said ———, now we command you that you make known to the said ———, and to all such Form of Scire Facias.

persons as may hold or occupy the said building, that they be and appear before the judges of our said court, at ———, on the ——— day of ——— next, to show if anything they know or have to say why the said sum of ——— should not be levied of the said building to the use of the said ———, according to the form and effect of the act of assembly in such case made and provided, and have you then there this writ. Witness (as in similar writs).

Return of Sci. Fa.

No such *scire facias* shall be issued in any case within ten days previous to the return day thereof. The said writ shall be served in the same manner as other writs of *scire facias* upon the defendant therein named, if he can be found within the county, and a copy thereof shall also be left with some person residing in the building, if occupied as a place of residence, but if not so occupied, it shall be the duty of the sheriff to affix a copy of such writ upon the door or other front part of such building.

Service of writ.

Judgment by default When.

Judgment by default may be entered upon motion by the plaintiff on the last day of the term to which said process is returnable, notwithstanding appearance by the defendant, unless said defendant shall have previously filed in the cause an affidavit that he verily believes there is a legal defence to the whole or part of such cause of action, and setting forth the nature and character of the same; and if the defence be to a part only, then specifying the sum really due and judgment may be entered for the plaintiff at his election for the sum acknowledged to be due. If such claim be not filed ten days before the return day of said writ, or if judgment be not so entered by default, then like proceedings shall be had as in other cases of *scire facias*.

Affidavit of defence.

Proceedings thereon.

Levari Facias.

The execution of every judgment under the foregoing provisions shall be by a writ of *levari facias* in the following form, to wit:

——— COUNTY, SS.

The State of Delaware to the Sheriff of said County, Greeting:

Form.

We command you that without any other writ from us of the following described building and lot of ground, to wit: (describing the same according to the record), in your bailiwick, you cause to be levied as well a certain debt of ———, which ——— lately, in our Superior Court for the county aforesaid, before the judges thereof, recovered against ———, to be levied of the said building and lot of ground, as also the interest thereon from the ——— day of ——— A. D. ———, and also the sum of ——— for the costs which accrued thereon, according to the form and effect of an act of the General Assembly in such cases made and

provided, and have you these moneys before our judges at ———, at our Superior Court in and for the County of ———, there to be held on the —— day of ——— next, to render unto the said ——— for his debt, interests and costs aforesaid, and have you then there this writ. Witness (as in similar writs).

Amend Section 3 by striking out the word "summons," in sixth line, and inserting in lieu thereof the words "*scire facias*." Sec. 3 amended by inserting Scire Facias in lieu of Summons.

Passed at Dover, February 24, 1869.

CHAPTER 465.

OF THE CITY OF WILMINGTON.

12 Vol. 103. Rev. Code, 209.

A further Supplement to the Act entitled an Act to amend Chapter 73 of the Revised Code, entitled, "Of the City of Wilmington," passed at Dover, February 28, 1861. 12 Vol. 103. Rev. Code, 209.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring,) as follows:

SECTION 1. That the boundaries of the City of Wilmington be further extended as follows, viz: by a line beginning at a stone at the westerly side of the Brandywine Creek at the point where the northerly boundary line intersects the same, thence easterly by a line running perpendicularly to and crossing the Wilmington and Great Valley Turnpike Road at right angles to a point intersected by a line running perpendicularly to the Philadelphia Turnpike Road, thence by said last mentioned perpendicular line southeasterly to a stone in the middle of said Philadelphia Turnpike Road about ninety feet northeasterly from Price's Run, thence southeasterly and parallel to Vandever Avenue to the northerly side of the Philadelphia, Wilmington and Baltimore Railroad, thence by a line southeasterly and parallel to Thirteenth street to its intersection in the River Dela- Extension of boundaries.

ware with the northerly extension of the present water line or front of said city, and thence thereby southerly to its intersection with the northerly side of Thirteenth street.

Powers of officers, and laws extended.

SECTION 2. Within the limits of the City of Wilmington extended by this act, the Mayor and Council of Wilmington shall be vested with all power, rights, privileges and immunities which before this time belonged to them as a municipal corporation, and all the laws, ordinances and regulations in force within the former city limits and not locally inapplicable, shall be extended and applied to the new territory comprised within the boundaries as set forth in the first section of this act.

Assessment.

SECTION 3. The City Assessor shall, as soon as may be after the passage of this act, assess the real estate by this act added to and included within the city limits, and rate for poll and school tax persons residing or owning property within said new boundaries, in the same manner and subject to the same rights, rules and restrictions as in other cases within the said city; *Provided*, that the money collected from taxes for the year one thousand eight hundred and sixty-nine in the said new territory, or so much thereof as the City Council may direct, shall be applied exclusively for improvements and other expenses to be made or incurred therein.

Tax collected, how applied.

Sixth Ward

SECTION 4. The new territory hereby added to the said city as lies to the north and north-east of the Brandywine Creek, shall be the Sixth Ward of the city, and shall be entitled to the same number of councilmen as the other wards.

Councilmen.

Members of Council.

SECTION 5. The following citizens shall be appointed as members of the City Council for said ward to serve until the first Tuesday in September, 1869, namely: William Thatcher, Christian Febiger and Dr. S. Miller.

Term.

Inconsistent acts repealed

SECTION 6. All acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Passed at Dover, February 24, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 466.

OF THE CITY OF WILMINGTON.

An Act to amend the further Supplement, passed at Dover, February 24, 1869, *to the Act entitled, "An Act to amend Chapter* 73 *of the Revised Code."* Current Vol. 451. Rev. Code, 209.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring,)* That the Board of Public Education in Wilmington shall have the charge of education in public schools within the Sixth Ward of the said city as described and added to the said city by the said act to which this act is an amendment, and within the territory described by said act, and the said Sixth Ward constituted by said territory shall be within and subject to all the powers of the said board defined and prescribed in and by the act for the benefit of public schools in Wilmington, passed at Dover, February 9, 1852, and entitled to all the privileges enjoyed under said act. And said act is hereby extended to the said Sixth Ward, and the Trustee of the School Fund in dividing the income of said fund shall allot the dividend of School District No. 3, in New Castle county, so that the same shall be drawn by the said Board of Public Education in the same manner as the dividends of the several school districts embraced by the City of Wilmington heretofore have been drawn, and the said Sixth Ward shall be entitled to send to and have in the said board three members, to be chosen, classed and continued as prescribed by said act, according to the provisions for electing and classing and continuing the original members.

Board of Education to take charge of public schools in Sixth Ward.

Provision of the act of Feb. 9, 1852, to apply.

Dividends allotted to School District No. 3 to be drawn by said board.

Sixth Ward to have three members in the board.

Passed at Dover, March 30, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 467.

OF THE CITY OF WILMINGTON.

Rev. Code, 209.

An Act to further Amend the Charter of the City of Wilmington.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring):

Division into nine wards.

SECTION 1. The City of Wilmington shall be divided into nine wards, as follows, viz: All the part of said city west of Market street and south of Third street shall be the First Ward; and all the part of said city east of Market street and south of Third street shall be the Second Ward; all the part of said city west of Market street, between Third street and Sixth street, shall be the Third Ward; all the part of said city east of Market street, between Third street and Sixth street, shall be the Fourth Ward; all the part of said city west of Market street, between Sixth street and Ninth street, shall be the Fifth Ward; and the part of said city east of Market street, between Sixth street and Ninth street, shall be the Sixth Ward; all the part of said city west of Market street, between Ninth street and the northerly

boundary line of the city, as established by the act passed at Dover, March 7th, 1861, shall be the Seventh Ward; all the part of said city east of Market street, between Ninth street and the said northerly boundary line of the city, shall be the Eighth Ward; and all the part of said city north of the northerly boundary line established as aforesaid, shall be the Ninth Ward. Wherever a street is named as a boundary in this section the centre thereof shall be understood.

Election. Annual election. Notice.

SECTION 2. An election shall be held in each ward on the first Tuesday of September in the year one thousand eight hundred and sixty-nine, and on the same day in every year thereafter, to be opened between the hours of twelve o'clock noon and one o'clock afternoon, and to continue open until seven o'clock in the afternoon, when the same shall be closed; the place of holding such election in each ward shall be advertised by the inspector and assistants of election for said ward, or any two of them, by advertisements posted in three or more of the most public places in such ward, at least seven days before the day of election.

Voters. Disqualification.

SECTION 3. At all city elections all free white male citizens of the age of twenty-one years and upwards, having resided within said city for three months next previous to the election, and otherwise qualified to vote at all State elections, and none others, shall be entitled to vote. If any person who may have had his domicile in said city shall actually remove to another place with the intention of remaining there an indefinite time as a place of domicile, he shall thereby lose his qualification of residence, notwithstanding he may entertain a floating intention to return at some future day.

Election of Inspector and Assistant Inspectors. Term. Members of Council. Vacancies, how filled. President of Council. Assessor. City Treasurer. Manner of choosing Assistant Inspectors.

SECTION 4. At every annual election in September the qualified voters of each ward shall elect from among themselves an inspector and two assistant inspectors, who shall act as such for the election in such ward in the following year. The qualified voters of each ward shall, at the same time, choose a member of council for their ward resident in the ward. A member moving out of his ward shall thereby lose his office and the City Council shall fill the vacancy. The voters in the respective wards shall, at the same time, vote for a president of council, assessor, and city treasurer, who shall be elected by a plurality of all the votes cast in the several wards. For choosing the assistant inspectors each voter shall vote for one person as assistant, and the two persons having the highest number of votes thus given shall be elected. Any ticket containing the name of more than one person for assistant inspector shall not be counted as to that office. At the election held on the first Tuesday of September in the present year (1869), and on the same day in every third

year thereafter, the voters in the respective wards shall vote for a mayor, who shall be elected by a plurality of all the votes cast in the several wards. The person elected mayor shall hold said office for the term of three years, and shall be ineligible to the same for the succeeding term.

Mayor.

Term.

Ineligibility

SECTION 5. The following persons are hereby appointed the inspectors for the election to be held in September of the present year (1869), as hereinbefore provided, to wit:

Inspectors for next election.

Inspector for the First Ward, Henry Bleyer; Inspector for the Second Ward, John H. Moore; Inspector for the Third Ward, Thomas D. Gibson; Inspector for the Fourth Ward, John Aiken; Inspector for the Fifth Ward, Archibald Given; Inspector for the Sixth Ward, John Cochran; Inspector for the Seventh Ward, James Bradford; Inspector for the Eighth Ward, Edwin Morrow; Inspector for the Ninth Ward, John Pyle.

To appoint Assistant Inspectors.

Place of election—notice of.

Officers of election.

Regulations.

To supercede prior officers.

Revocation of powers of prior officers

Each of said directors [inspectors] shall appoint two assistant inspectors in his respective ward, and the place of holding said election in each ward shall be advertised in the manner prescribed in Section 2 of this act. The said inspectors and the assistant inspectors by them appointed shall be the officers of said election, and shall hold the same under and subject to all the rules and regulations prescribed by law in reference to the annual election. They shall supercede and act in lieu of all such inspectors and assistant inspectors as were elected in the several wards of the city at the last annual election. The authority and powers of all such inspectors and assistant inspectors so elected are hereby revoked, and they are hereby prohibited from holding the election in the respective wards for which they were elected.

Rules of elections.

SECTION 6. All the laws and regulations now existing in relation to the annual election by wards in September, and not inconsistent with the provisions of this act, shall be taken to apply and are hereby extended to the annual election hereafter to be held in the several wards as herein defined and provided.

City Council

Term.

President.

SECTION 7. The City Council shall consist of eighteen members, to be elected for two years, so that there shall be two members of council from each ward, and in addition thereto there shall be a president of council, who shall be elected at each annual election by a plurality of all the votes cast in the several wards. The president of council shall be a member and the presiding officer of the City Council. To the end that nine members of council shall be chosen annually in regular order besides supplying vacancies, the following rule shall be observed in the election of members of the council, viz: at the city election to be held in the present year 1869, there shall be elected in each

Term of members elected in present year

of the respective wards two members, one to hold office until the the city election in the year 1870, and the other until the city election in the year 1871, and at the city election to be held in each year after the present year (1869) there shall be elected in each ward of the city one member of the council, each member so elected to hold for the term of two years. A member elected to fill a vacancy shall hold for the residue of the term of the member whose place he supplies. The members of council now in office shall hold until the election of the members of council and other city officers at the election in the present year (1869,) as herein provided, when the terms for which they were respectively elected or appointed shall at once expire, and all their authority and powers respectively be hereby revoked and shall thereupon cease to exist and to be exercised by them. Subject to the change herein made all the existing provisions of the city charter, and of all laws touching the City Council, shall continue in full force and effect.

Annual election of

Term.

Vacancies filled for residue of term

Term of members now in office.

Charter and laws to continue in force, subject to this act.

SECTION 8. The office of alderman of the city shall be and hereby is abolished, and so much of all existing laws and of such provisions of the city charter as relate to the powers and duties of said office is hereby repealed, made null and void: *Provided*, that the alderman now in office shall continue to hold for and during the term for which he was elected, and until the expiration thereof may exercise the powers and enjoy the emoluments heretofore appertaining to said office. Justices of the peace in the City of Wilmington shall respectively have the powers heretofore exercised by the alderman after the expiration of the term of the present alderman. The Mayor's Court shall be held by the mayor and president of council, either one constituting a quorum.

Office of Alderman abolished.

Repeal of laws relating to.

Term of Alderman now in office.

Justices of the Peace to have powers of Alderman

Mayor's Court.

SECTION 9. For the purpose of holding elections for city, State and county officers in Wilmington hundred, the said hundred shall be divided into nine election districts. Each ward in the City of Wilmington, as the same is defined and bounded in Section 1 of this act, shall be an election district of Wilmington hundred. The election in the first election district, being the First Ward of the City of Wilmington, shall be held at the house known as the "White Horse Tavern;" in the second district, being the Second Ward, at the house known as the "Felton House;" in the third district, being the Third Ward, at the north-east corner of 5th and Orange streets; in the fourth district, being the Fourth Ward, at the most southern window of the City Hall looking into Market street; in the fifth district, being the Fifth Ward, at the house known as the "Lafayette Hotel;" in the sixth district, being the Sixth Ward, at the north-east corner of

Election Districts.

Limits.

Elections, where held.

Seventh and Walnut streets; in the seventh district, being the Seventh Ward, at the public school house on the north-east corner of 11th and Washington streets; in the eighth district, being the Eighth Ward, at the south-east corner of 12th and King streets; in the ninth district, being in the Ninth Ward, at the Brandywine Academy. When for any reason a place herein named cannot be procured for holding an election, it shall be held at such place in the ward as may be appointed by the inspector and assistant inspectors or any two of them.

When officers may appoint a place of holding elections.

Election of Inspectors.

SECTION 10. There shall be elected, according to the provisions of Chapter 17 of the Revised Code, one inspector for each of the said districts, except that at such elections, instead of the collector of the hundred, the presiding officers for the several districts herein created shall be for such district some qualified voter of the district, to be appointed by the Levy Court in the month of March next previous to the election, and such qualified voters, when appointed, shall have all the powers and perform all the duties given to and imposed upon collectors of hundreds in said 17th chapter. If at any election for inspectors in either of the election districts aforesaid, a presiding officer shall not have been appointed or shall not be present at the time and place of opening the election, the electors present shall choose a presiding officer for said election according to the provisions of Section 10, Chapter 18 of the Revised Code, and at said election there shall be voted for one assessor for the city or hundred of Wilmington.

Presiding officers, how appointed.

Powers.

If no presiding officer appointed or present, electors shall choose one.

Election of Assessor.

Counting votes for Assessor.

SECTION 11. Immediately after making the certificates required by Section 8 of Chapter 19 of the Revised Code, the presiding officers and judges of the several election districts aforesaid shall assemble in the City Hall and ascertain the number of votes given for assessor in all the election districts of the city. The candidate having the highest number of votes shall be declared duly elected assessor, and the presiding officers and judges shall make, sign and deliver certificates of said election according to law. If two or more persons shall have an equal and at the same time the highest number of votes for the office of assessor, the presiding officers of all the election districts in the city shall agree upon and give a casting vote. The provisions of Section 2, Chapter 18 of the Revised Code, are hereby extended to the places by this act appointed for holding elections for the State and county officers.

Certificates of election. Tie.

Casting vote

Rev. Code, Chap. 18, Sec. 2, extended.

No police to be at any voting place.

SECTION 12. No member of the police force of the City of Wilmington shall, on the day of the city election, be within the distance of thirty feet from any voting place, except for the purpose of depositing his vote or to quell an actual disturbance of the public peace, nor shall he by solicitation or intimidation wilfully

Exceptions.

attempt to influence a voter as to the casting of his ballot. Any offender against any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction by indictment shall be fined not less than ten nor more than fifty dollars and imprisoned not less than ten nor more than thirty days, or either, at the discretion of the court. Not to influence voters. Penalty.

SECTION 13. On and after the first Saturday of April in the year of our Lord one thousand eight hundred and seventy, the Board of Public Education shall continue and shall be composed of eighteen members, to wit: two members from each of the wards hereinbefore defined and established. Said members for each ward must be qualified voters in the ward for which they are chosen, and they shall be chosen by the inhabitants of the ward having right to vote at the city election; plurality of votes shall elect. The Board of Public Education shall appoint the place of holding the election in each ward, and give at least four days' notice of it by handbills, under the name of the secretary of the board, posted in four or more of the most public places in the ward. The election of members of the board shall be held on the first Saturday of April in the year of our Lord one thousand eight hundred and seventy, and on the first Saturday of April every year afterward. The election shall be held in the afternoon, opened at one o'clock, or within thirty minutes after, and close at seven o'clock. The inspector and assistant inspectors of the city election in the respective wards shall hold the elections of members of the Board of Public Education in the same wards, and if they refuse or are not at the place of election at the time of opening it, the voters present shall choose an officer for holding the election in place of the one or more refusing or not present. The officers holding the election shall take the oath or affirmation prescribed by the act for the benefit of public schools in Wilmington, and returns shall be made according to said act. At the election of members of the board on the first Saturday of April in the year of our Lord one thousand eight hundred and seventy, there shall be chosen in each ward two members, one for one year, the other for two years; the members so chosen shall compose said board. The offices of those before chosen, although not regularly expired, shall cease and be vacated on that day. At the election in every year after the year one thousand eight hundred and seventy, one member shall be chosen in each ward, whose term of office shall be two years. Moving out of the ward vacates the office of member. All vacancies shall be supplied by the board till the next election, when members shall be chosen to fill vacancies.

Board of Public Education. How composed. Qualification. How chosen. Place of election. Notice. Time. Officers of election. When voters may choose officers. Oath. Returns. Terms of members chosen at next election. Expiration of term of those before chosen. Annual election. Term. Vacancy. How filled.

Inconsistent acts repealed

SECTION 14. So much of the charter of the City of Wilmington, or of any law or regulation as is inconsistent with or inapplicable under the provisions of the several foregoing sections of this act, is hereby repealed, made null and void.

Passed at Dover, April 1, 1869.

CHAPTER 468.

CITY DEBT OF WILMINGTON

10 Vol. 329.

A Further Supplement to the Act entitled, "An act to Limit the City Debt of Wilmington, and to Provide for the Discharge thereof."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring,) in compliance with a request of City Council of Wilmington, presented by a committee thereof:

The borrowing of $225,000 authorized.

SECTION 1. That the Mayor and Council of Wilmington shall have power and authority, under an ordinance of the City Council to be passed with the concurrence of two-thirds of all the members for the time being of the City Council, at any time hereafter to borrow a sum or sums of money not exceeding in the aggregate two hundred and twenty-five thousand dollars, which shall be in addition to the present funded debt of the city, and shall be appropriated; applied and expended, so much thereof as shall be necessary, for the following purposes and works, that is to say:

The purposes for which it shall be expended.

For opening and widening King street, in said city, from Second street to the Christiana Creek, fifty thousand dollars.

For laying an eight-inch main water pipe along Broome street, fifteen thousand dollars.

To pay the present floating and unfunded indebtedness of the city, twenty-five thousand dollars.

CONCERNING CITIES AND TOWNS.

For improving the water works, increasing and enlarging the conveniences for the supply of water to the city, and introducing the Brandywine water into the Sixth Ward, one hundred and thirty-five thousand dollars.

Any sum borrowed under the authority of this act to bear interest at a rate not exceeding six per cent. per annum, payable annually, and the principal at such time or times and in such manner as the ordinance shall prescribe. Interest. Principal.

SECTION 2. The overplus of any money borrowed under the authority of this act, which shall remain after the completion of the work to which it is by this act specifically appropriated, shall be placed to the credit of the water account of the city, and used for no other purpose whatever than in repairing or improving the city water works, or increasing or distributing the supply of water to the city. Overplus, how appropriated.

SECTION 3. For the redemption of so much of the funded debt of the city as shall be hereafter contracted under this act, there shall be a sinking fund of one dollar for every two hundred dollars of the debt so created, and from time to time existing, applied every year to the redemption thereof until the whole of said debt shall be paid. Sinking Fund.

To constitute said sinking fund the city treasurer shall set apart and appropriate to the purpose the sum above designated every year after the contracting of any debt under this act, till the whole of such debt be paid, from money that shall come to his hands from taxes, the water, and other rents for the year, and as they shall come in, until the sinking fund in this behalf shall be fully made up, and in default of such, then from any other funds of the city in the treasury unapplied, and the same rules in regard to investment, management, general control and disposal of said fund which exist and are applicable in regard to the sinking fund under the law to which this is a further supplement, shall exist and be applied to the Sinking Fund hereby established or provided for. How constituted.

SECTION 4. The act passed at the last session of the General Assembly (being Chapter 173 of the 13th Volume of the laws,) passed the 13th day of March, 1867. be and the same is hereby repealed. Certain acts repealed.

Passed at Dover, March 9, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 469.

CITY DEBT OF WILMINGTON.

10 Vol. 329.
SEC. 1. Condemnation of land.

SEC. 1. Sec. 23, Chap. 376, Vol. 11, to apply. Exception.

A further Supplement to the Act entitled, "An Act to limit the City Debt of Wilmington, and to provide for the discharge thereof," passed February 21, 1849.

10 Vol. 329.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring),

Condemnation of land.

SECTION 1. In case the Mayor and Council of Wilmington shall be unable to agree with the owners for the purchase of such land as may be required for the purpose of from time to time enlarging, extending and improving the works for supplying water to said city, then so much thereof as shall be required for such purposes may be condemned and taken therefor in the same manner and subject to the same conditions and proceedings as are by Section 23 of Chapter 376 of the Laws of this State entitled, "An act to amend the Charter of the City of Wilmington," prescribed for condemning and taking land for the extending, widening, laying out or opening streets, except that the commission to be issued shall command the freeholders to whom it shall be directed to assess the damages that may result to the several owner or owners of the land required for the purpose of enlarging, extending and improving the works for supplying water to the City of Wilmington.

Sec. 23, Chap 376, Vol. 11, to apply.

Exception.

Passed at Dover, April 2, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 470.

WHARVES IN THE CITY OF WILMINGTON.

A further Supplement to the Act entitled, "An Act to Regulate the Building of Wharves in the City of Wilmington," passed at Dover, February 6, 1855. 11 Vol. 181.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That George G. Lobdell, William Thatcher, Charles Warner, George W. Bush and Francis Barry, be commissioners authorized and empowered to review the Christiana and Brandywine Creeks within the City of Wilmington, and between the southern limits of the city and the railroad bridge belonging to the Wilmington and New Castle Railroad Company, across the Christiana near Du Pont's wharf, and re-adjust, alter, fix and determine the limits and distances to which wharves may be extended out into or along the margin of said streams, such limits to be ascertained by certain fixed distances to be computed and measured from such land-marks as the said commissioners, or a majority of them, may for that purpose adopt, and the said commissioners, as soon as conveniently may be after adjusting and determining such limits as aforesaid, shall make return of their proceedings and determinations in the premises under their hands, or the hands of a majority of them, to the City Council of Wilmington. The said return shall be filed and preserved in the office of the clerk of said City Council. The said clerk shall also leave the said return to be recorded in the office for recording deeds in and for New Castle county, and the original return and plot, together with the return made in pursuance of this act, shall be taken together and deemed and considered one return, and the record of the same, or a duly certified copy thereof, shall be competent evidence in all courts of law and equity in this State.

Commissioners appointed. Duties. Shall make return Where filed and recorded

SECTION 2. All the provisions of the act to which this is a further supplement, as already amended, not inconsistent herewith, shall extend to and be a part of this act.

What laws are a part of this act.

Passed at Dover, April 9, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 471.

STREETS OF NEWARK.

11 Vol. 46 *An Amendment to a Supplement to An act entitled, "An Act for the better Regulation of the Streets of Newark, and for other purposes."*

Sec. 1, Chap. 47, amended [SECTION 1.] *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 47 of 11th Volume Laws of the State of Delaware, Section 1st, be amended by inserting in the sixth line, after the word "of," and before the word "two," "not less than."

How.

Passed at Dover, February 3, 1869.

CHAPTER 472.

STREETS OF DELAWARE CITY.

10 Vol. 593. *An Additional Supplement to An act entitled, "An Act for the better Regulation of the Streets of Delaware City, and for other purposes," passed March* 5, 1851.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Commissioners authorized to raise certain sums by taxation. SECTION 1. That the commissioners of the town of Delaware City shall have power to raise annually, by taxation of the persons and property within the limits of said town, and according to the provisions of existing laws in regard to the assessment and collection of taxes within said town, such sum as they may deem necessary, not exceeding six hundred dollars in any one year: *Provided, however,* that for the purpose of erecting a jail for the use of the said town the said commissioners shall have power to raise by taxation, in the manner aforesaid, the further sum of six hundred dollars, of which more than the sum of two hundred dollars shall not be levied in any one year.

Proviso.

CONCERNING CITIES AND TOWNS.

SECTION 2. That the said commissioners are hereby authorized to erect and maintain such lamps or other lights as they may deem suitable for lighting the streets of said town. Lamps.

SECTION 3. That said commissioners are hereby authorized to adopt such ordinances as they may deem expedient for the preservation of good order and for the better security of public and private property within said town, and to prescribe penalties for the violation thereof, in no case exceeding ten dollars. Town Ordinances. Limit to penalty for violating.

SECTION 4. The treasurer of said town shall, by virtue of said office, be the town constable, who shall, within the limits of said town, be a conservator of the peace and exercise the same powers and be entitled to the same fees as a county constable in criminal cases. He shall execute all lawful orders and processes directed to him by the executive officer of said commissioners, or by any justice of the peace residing within the limits of said town, touching any offence under said original act, or any supplement to the same, or any ordinance of said town, and he shall take care that the ordinances of said town are observed and the peace of said town preserved, and shall arrest all persons who shall in his presence commit any breach of the peace or be riotously assembled, and in case of necessity he may command the aid of the people of said town. Town Constable. Powers and fees.

SECTION 5. Any justice of the peace residing in said town, or the executive officer of said commissioners, shall have jurisdiction of all offences under said original act, or any supplement to the same, or any ordinance of said town; and all fines under said act, supplements, or ordinances shall be for the use of the town, and upon non-payment of any such fine and the costs of prosecution, the person convicted may be committed to the public jail of New Castle county or to the jail of said town for any period not exceeding ten days, and the said commissioners shall be liable to the sheriff of the county for the expense of keeping every such prisoner committed to the county jail. Jurisdiction of Justice. Fines.

SECTION 6. That Sections 6 and 9 of the said original act to which this is a supplement, are hereby amended by striking from said sections respectively the words "five dollars," and inserting in lieu thereof the words "ten dollars." Sections 6 and 9 of original act amended. How.

SECTION 7. That such parts of the said original act and of the supplement to the same, passed February 15, 1853, as are repugnant to this act are hereby repealed. Inconsistent acts repealed

Passed at Dover, March 10, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 473.

GEORGETOWN INCORPORATED.

An Act to incorporate the Town of Georgetown.

Elections for town officers, when and where held.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, two-thirds of each branch of the Legislature concurring*), That an election shall be held in Georgetown, Sussex county, on the first Saturday in March next, at the place where the general elections are now held, from 1 o'clock till 3 in the afternoon, and thereafter on the first Saturday of every March at such time and place as shall be determined and fixed by the town commissioners, due notice whereof shall be given by the said commissioners at least five days before said subsequent election, for an alderman, five commissioners, an assessor and treasurer. The said alderman and commissioners, and the assessor and treasurer shall be residents of and freeholders in said town. The votes shall be received by a State's justice of the peace in said town, and the result of the balloting for said alderman, commissioners, assessor and treasurer shall be ascertained by himself and two citizens of said town selected by him to assist in

Notice.

Qualifications of officers.

Balloting.

holding said election. At such election every free white male citizen of said town who shall have attained the age of twenty-one years, and is a taxable of said town, shall have the right to vote. The justice of the peace and the two citizens aforesaid shall be judges of the election and shall decide on the legality of the votes offered. Immediately after the election is closed the votes shall be read and counted, and the persons having the highest number of votes shall be declared duly elected and shall continue in office one year, or until their successors are duly elected. Immediately after such election the person or persons under whose superintendence the election is held shall enter, in a book to be provided for that purpose, a minute of such election containing the names of the persons chosen, alderman, commissioners, and assessor and treasurer, and shall subscribe the same, and shall give to the alderman, commissioners, assessor and treasurer elect certificates of their election. The book containing such minutes shall be preserved by the commissioners and shall be evidence.

Qualifications of voters.

Judges.

Minutes of election.

Certificates of election.

SECTION 2. *And be it further enacted as aforesaid,* That the commissioners of Georgetown, to be elected as hereinbefore prescribed, and their successors in office, shall be and they are hereby created a body politic and corporate in law, and the said commissioners of Georgetown, and their successors, shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever in this State by the corporate name of the "Commissioners of Georgetown," and may have and use a common seal, with such device or devices as they shall think proper, with power to alter or change the same as may be deemed expedient, to purchase, take, hold, receive and enjoy any messuage, lands, tenements, or hereditaments, in fee simple or otherwise, and also goods and chattels, rights and credits, and to alien, grant, devise, sell and dispose of the same in such manner and form as they may deem expedient: *Provided, nevertheless,* that there is hereby reserved to the legislature the power and authority to repeal this act, or any part thereof, or any other law which may hereafter be enacted respecting the said town.

Incorporation.

Powers.

Name.

Power of revocation.

SECTION 3. *And be it further enacted as aforesaid,* That the limits and bounds of Georgetown shall extend to the distance of one-half mile in every direction from the centre of the public square in said town; *Provided* that all lots, pieces and parcels of land included within the limits of the town as herein set forth, exceeding one acre in quantity, shall be exempt from taxation for the uses and purposes of said town of Georgetown, but all such lots, pieces and parcels of land exceeding an acre as aforesaid, having a dwelling thereon, shall be taxed as and for one town lot.

Town limits.

What land exempt from tax.

CONCERNING CITIES AND TOWNS.

Powers of Alderman.

SECTION 4. *And be it further enacted as aforesaid,*, That the person elected as alderman aforesaid of said town shall have, within the limits of said town, all the powers, authority, jurisdiction and cognizance of a justice of the peace of and over all breaches of the peace and other offences within said town, to arrest and hold to bail or fine and imprison all offenders, and of and over all fines, forfeitures and penalties which may be prescribed by any law of the State, or by ordinances of the town commissioners regularly passed and established for the government of said town, and of and over all neglects, omissions or defaults of the town bailiff, assessor or treasurer, or any other person or officer whose duty it may be to collect, receive, pay over or account for any money belonging to said town, or to execute or obey any law or ordinance thereof: *Provided* that he shall not impose any fine exceeding ten dollars, nor have jurisdiction in any civil matter other than to carry out the provisions of this act, or the rules and regulations adopted for the government of said town by the persons authorized to adopt the same under this act. The fees of said alderman shall be the same as are allowed justices of the peace for similar services under the law of this State. It shall be the duty of the alderman to keep a book of record, or docket, to be called the "Alderman's Docket of Georgetown," to be provided by the commissioners aforesaid, in which all his official acts shall be entered, and he shall, upon expiration of his term of office, deliver over to his successor all the books, papers, &c., pertaining to his office, within ten days after the election and qualification of his successor, and in default of so doing he shall forfeit and pay, for the use of said town, the sum of twenty dollars, to be recovered before the succeeding alderman or any justice of the peace residing in said town.

Proviso.

Fees.

Docket.

Officers to be sworn.

SECTION 5. *And be it further enacted as aforesaid,* That the alderman commissioners, assessor and treasurer, aforesaid, so elected, shall, before one of the justices of the peace in the said town, be duly qualified by oath or affirmation to perform the duties of their offices respectively to the best of their knowledge respectively and without favor or partiality, and after being so qualified the said commissioners, at their first meeting after each election, shall choose a president and secretary from their numbers who shall continue during their term of office, and if by death or otherwise the place of the president or secretary shall become vacant, the commissioners, or a majority of them, at their next meeting thereafter, are hereby authorized to fill said vacancy out of their own numbers as aforesaid, and if a vacancy shall occur in the office of alderman, commissioners, assessor or treasurer, during the said term of

Commissioners to choose President and Secretary.

Vacancies.

office, by death or otherwise, the said commissioners, or a majority of them for the time being, at their next meeting thereafter, are hereby authorized to fill said vacancy by appointing an alderman, assessor, commissioner or treasurer, or either, as the case may be, to fill the unexpired term of said office or offices. All the commissioners shall act, but the decision of a majority shall govern. The officers so appointed, after being qualified as aforesaid, shall have all power in like manner and be subject to all penalties the same as those duly elected to said office or offices. It shall be the duty of the president chosen as aforesaid to preside at all meetings of said commissioners, and in case of his or the secretary's absence an officer *pro tem.* shall be appointed in his or their place. It shall be the duty of the secretary to record all the proceedings of the said commissioners and keep a correct journal of the same in a book or books provided the purpose, and also the papers relative to said town, all of which are to be carefully preserved and delivered to his successor in office.

President to preside.

Duties of Secretary.

SECTION 6. *And be it further enacted as aforesaid,* That the commissioners for the time being, or a majority of them, shall have the superintendence and oversight of all roads and streets, lanes, alleys and gutters now open, or hereafter to be opened, and shall have power and authority to cause the streets, lanes, alleys, bridges and gutters in said town to be repaired, supported, regulated, removed and amended, in any manner they may deem most proper for the convenience and interest of the citizens of said town, and shall cause a fund to be raised by way of tax upon persons authorized to vote for commissioners by this act, and upon all lands and tenements and interest in such lands and tenements within the limits of said town, to discharge the expenses of repairing the said streets, lanes, alleys, bridges and gutters, or for any other purpose that will contribute to the safety, convenience and prosperity of said town. That the commissioners for the time being, or a majority of them, shall have the power, upon the application of five or more citizens of said town by petition to them for that purpose, to locate, lay out and open any new street or streets which five or more citizens of said town may desire to be located and laid out and opened, allowing to the persons respectively through or over whose grounds such new street or streets may run such compensation or damages therefor as they shall deem just and reasonable under all circumstances, which compensation, if any be allowed, shall be paid by the treasurer of the town out of moneys of said town on warrant drawn on him by the commissioners aforesaid. That the Levy Court of Sussex county be and they are hereby directed, in

Powers of commissioners in relation to roads, streets, &c.

Tax to discharge the expenses of repairing streets, &c.

Laying out and opening new streets.

Levy Court to make an annual ap-

propriation for roads, &c

making the apportionment of the sum of the road tax to be paid to the overseers of roads, annually to make an order for the payment to the commissioners of Georgetown of the sum of one hundred and fifty dollars to be by them expended in repairing and maintaining in proper order the road, streets and bridges within the limits of said town; and the said commissioners shall have the sole supervision of said roads, streets and bridges, and shall settle with the said Levy Court as other overseers of public roads: *Provided, always,* that the said commissioners shall in no case be required to repair or keep in order any roads or highways subject to be supported by the County of Sussex.

Proviso.

Notice of determination to open new streets.

SECTION 7. *And be it further enacted as aforesaid,* That whenever the commissioners shall have proceeded to locate and lay out any new street and shall have fixed the compensation therefor, it shall be their duty, immediately after the survey and location of said street, to notify, in writing, the owner or owners of the real estate through or over which such new street may run of their determination to open the same, and to furnish a general description of the location thereof, and also the amount of such damages or compensation allowed to each, and if such owner be not resident within the said town to notify the holder of said real estate. If any owner be dissatisfied with the determination to lay out and open the said street, or with the amount of the compensation or damage, he may, within ten days after receiving notice from the commissioners as aforesaid, appeal from the said determination, or assessment, or both, by serving written notice to that effect on the said commissioners or some one of them. In order to prosecute said appeal such owner or owners shall, within ten days after the expiration of the ten days allowed for appeals, apply to the justice of the peace oldest in commission, residing within said town, who shall, within three days thereafter, and upon notice to the said commissioners or some one of them, select and write down, on a list, the names of twenty-one judicious and impartial freeholders, nine of whom shall be freeholders of Georgetown hundred, owning no real estate in said town, and not residing within its limits, and the remaining twelve shall be freeholders owning real estate in said town and residing within its limits. The said commissioners shall, upon receiving said notice from the justice, immediately notify all persons owning real estate on the said street and residing in said town, who have notified them of their intention to appeal, of the time and place when and where the said names will be selected, and at the time and place mentioned in the notice of the justice the said appellants, or as many of them as choose, and the said commissioners, shall attend. The appellants, their agent or attorney,

Appeal from said determination.

Mode of selecting freeholders to decide the appeal.

shall first strike out one of said names, and the commissioners, their agent or attorney, shall strike out another, until each shall have struck out seven; such striking shall be so confined and regulated as to leave seven remaining freeholders, located as follows, viz: four resident in said town and three residing out of said town, who shall constitute the freeholders who shall determine concerning the necessity of said street, and assess the damages of all owners of real estate through or over whose ground the said street shall run who shall have notified the commissioners of their intention to appeal, and their award and assessment shall be final, and a copy thereof shall be communicated to all parties, appellants and commissioners. In case either side, commissioners or appellants, be not represented before the justice, or shall refuse to strike, the justice shall strike for the party so absent, neglecting, or refusing. Any party, appellant or commissioners, may, within ten days after the appointment of said freeholders and upon five days notice to the other parties resident in said town, or, in case of non-resident's, notice to the holders of any real estate, call out the freeholders aforesaid, who shall thereupon proceed upon oath or affirmation, to inquire of the necessity of such street, and in case they deem such street to be necessary to assess the damages of the several owners. Their award shall be made within twenty days from the time of notifying them to meet. If any freeholder thus appointed and notified shall refuse to serve he shall forfeit the sum of twenty dollars, to be recovered in an action of debt before any justice of the peace of Sussex county, in the name of the town commissioners for the use of said town. If in case the award of the freeholders shall be against the necessity of any such street, then no petition for any such new street so condemned shall be entertained by the commissioners then acting during the term for which they were elected. The act of a majority of said freeholders shall be as good as the act of the whole in making any such award or assessment of damages.

Number and qualifications of freeholders.

Their award final.

Mode of proceeding in cases of default.

Penalty for freeholders neglecting to serve.

Acts of majority good.

SECTION 8. *And be it further enacted as aforesaid.* That if on any such appeal the award shall be against the necessity of a street, or the freeholders shall increase the damages of any appellant, then the costs of appeal shall be borne by the town. But if the freeholders shall affirm the necessity of the street, and shall not increase the damages of any appellant, then the costs shall be paid by the appellants equally. That the damages which may be assessed upon the occasion of opening any new street shall be paid out of the funds of the town, or duly tendered, before the property of any person in whose favor the damages are assessed shall be appropriated for the opening of any such streets, and in case any such owner or owners, in whose favor

Costs of the appeal, how borne.

Damages assessed, out of what funds to be paid.

Damages to minors and non-residents, where deposited.

any such damages are assessed shall be a minor, non-resident, or refuse to receive or be incapable for any cause of receiving the same, such damages may be deposited in the Farmers' Bank of the State of Delaware, at Georgetown, or any other banking institution which may at the time exist in said town, to the credit of such person or persons, and subject to his or their order, and such deposit shall operate as payment. The fees of the freeholders shall be one dollar per day.

Fees of freeholders.

House or land owners may be directed to curb and pave.

SECTION 9. *And be it further enacted as aforesaid,* That the commissioners, or a majority of them, be and they are hereby authorized and required, upon the written petition of five or more freeholders of said town, to direct in writing the owner or owners of any house or land in Georgetown, before or in front of which they may deem proper that a pavement should be made, to curb and lay a pavement of brick or smooth stones of such length and width as the said commissioners may specify, and if such owner or owners shall neglect or refuse, for the space of three months after being directed as aforesaid, to lay such pavement with good and sufficient curbs, it shall and may be lawful for the said commissioners, and they or a majority of them are authorized and required to cause such pavements and curbs to be made and to recover the cost of making the same by the distress and sale of any goods and chattles, lands and tenements, belonging to such owner or owners within the limits of the said town. If any pavement already made shall at any time, by the said commissioners, or a majority of them, be deemed an insufficient pavement, they, or a majority of them, shall have power and are hereby required to direct, in writing, the owner or owners thereof to make a sufficient one, and upon neglect or refusal so to do for the space of three months, the said commissioners or a majority of them, shall cause the same to be done and recover the costs of so doing the same in like manner as above prescribed in case of new pavements. Notice to one joint owner shall be notice to all, and in case no owner shall reside in the town, notice to the occupant shall be deemed a sufficient notice to the owner. The said commissioners, or a majority of them, may cause such sidewalks or portions thereof as are unpaved to be covered with gravel sand or dirt, if they deem them not proper to be paved, and shall cause them to be put in good order for the convenience of the citizens of said town, and may cause flagstones to be put down at the crossings of the streets wherever they may think necessary, and the cost of doing the same shall be defrayed out of the funds of the town. If any lot or lots on any of the said streets shall be held or owned by a widow or widows as and for her dower, such expenses incurred as aforesaid

Commissioners' duty in cases of refusal or neglect.

Costs, how recovered.

Of insufficient pavements.

Notice.

Unpaved walks may be graveled.

Costs, how defrayed.

for the lot or lots so held shall be paid by the owner or owners of the reversion in fee simple; and if such owner or owners be minors at the time of such expenses being incurred, then to be paid by the guardian or agent acting for such minor or minors, out of any money or effects of such minor or minors, and a receipt therefor to such guardian or agent shall be a sufficient evidence of such payment, and be allowed in his or her guardian or agents' account, and if not paid by the guardian or agent as aforesaid on the presentation of the bill, the same to remain on interest from the day of presentation and be a lien against such lot and improvements until paid. All subsequent repairs named in this act to be kept up at the expense of such tenant in dower.

When reversioners shall pay costs.

SECTION 10. *And be it enacted as aforesaid,* That the said commissioners shall have authority to make such regulations and ordinances for the government of the town as they shall deem proper and necessary, and they are hereby authorized and required to provide sanitary measures for the health of the citizens, cause all obstructions and nuisances that may at any time be and exist within the limits of said town, whether in the streets, lanes, alleys, or gutters, on the sidewalks, or in any other place within the limits aforesaid, to be removed and abated. The said commissioners, or a majority of them, may proceed, either upon their own view or upon complaint of any other citizen in writing, stating the character of said nuisance or obstruction and where the same exists. If the said commissioners, or a majority of them, either upon such information or upon view, shall determine that an obstruction or nuisance exists and ought to be removed, they shall give notice, in writing, to the person causing such obstruction or nuisance, or who is responsible for its existence or continuance, to remove or abate the same, and if such person shall refuse or neglect, for the space of two days after such notice, to remove or abate the said obstruction or nuisance, he shall forfeit and pay the sum of ten dollars with costs, to be recovered by the commissioners, for the use of the town, in the same manner as debts of that amount are recoverable, and for every additional day the same shall remain unabated and unremoved, he or she shall forfeit the further sum of ten dollars, to be recovered with costs in the same manner.

Commissioners to make town regulations and ordinances, and provide sanitary measures.

Nuisances.

SECTION 11. *And be it further enacted as aforesaid,* That the assessor of the town for the time being shall annually, during the month of April, make a true, just and impartial valuation or assessment of all the real estate within said town, except as hereinbefore excepted, and also an assessment of all the white male citizens residing in said town above the age of twenty-one years, as well

Annual assessment.

those owning as those not owning real estate within its limits; and the said assessor shall forthwith, after making such assessment, deliver to the commissioners for the time being a duplicate containing the names of all the persons assessed and the amount of their assessments, distinguishing the real and personal assessments of each. The commissioners shall assess the real estate and person of the assessor. The commissioners shall, between the first and fifteenth days of April, cause a full and complete transcript of said duplicate to be hung up in a public place in one hotel in said town, there to remain for the space of twenty days thereafter for public inspection; and the said commissioners shall, on the Wednesday next after the expiration of the said twenty days, hold a court of appeal, which shall continue open from 9 o'clock A. M. until 12 M., and from 2 o'clock P. M. until 5 o'clock P. M., of the said day, when they shall hear and determine appeals from said assessment. Notice of the hanging up of the list, and also, at the same time, notice of the time and place of hearing appeals shall be given by notices posted in at least six public places in said town. The decision of the commissioners upon any appeals shall be final and conclusive. No commissioner shall sit upon his own appeal, but the same shall be heard and determined by the others. After the valuation and assessment shall be examined and adjusted by the said commissioners, all taxes shall be levied, assessed and raised on the real estate, and persons thus valued and assessed in just and equal proportions and rates. The assessor, immediately after his election and before entering upon the duties of his office, shall be sworn or affirmed, by some judge or justice of the peace, diligently, faithfully and impartially to perform the duties of his office to the best of his ability, knowledge and judgment, and a certificate shall be made by the person administering the oath or affirmation in the record book of the commissioners containing the certificate of the election of the alderman, commissioners, assessor and treasurer aforesaid.

Duplicate assessment list to be delivered to commissioners.

Transcript of the same, where to be placed.

Court of Appeal.

Notice.

Decision final.

Commissioners not to sit on own appeal.

Mode of levying tax.

Assessor to be sworn.

SECTION 12. *And be it further enacted as aforesaid,* That the commissioners, after having ascertained the sum necessary to be raised on the said town for the purpose of this act, and having apportioned the same on the assessment and valuation aforesaid shall, yearly, in the month of April, or as soon thereafter as convenient, furnish the treasurer of said town with a list containing the names of the taxables, as well the owners of real estate as those not owning real estate, and opposite the names of each the amount of the real estate and his personal assessment, distinguishing between them, and also the tax levied on each person, and also the tax on the whole valuation and assess-

Tax list to be delivered to Treasurer.

ment and the rate per hundred dollars. The list shall be signed by the commissioners or a majority of them. The treasurer, immediately after receiving the said list, shall proceed to collect the taxes mentioned in the said list, and in collecting the same shall have the same powers as are given by law to the collector of the county rates and levies. The treasurer, before he enters on the duties of his office, shall give bond, with sufficient surety, in the penal sum of one thousand dollars, to the commissioners, conditioned for the faithful discharge of the trust reposed in him and the payment over to his successor in office [of] all such sums of money as may remain in his hands upon the settlement of his accounts. The said treasurer shall pay all orders drawn on him by the said commissioners, or a majority of them, and shall settle his accounts with the said commissioners annually, in the month of February, and as often and at such times as they, or a majority of them, shall require. The said assessor and treasurer shall each receive a reasonable compensation, to be determined by the commissioners.

Collection of taxes.

Treasurer to give bond.

Duties.

Compensation.

SECTION 13. *And be it further enacted as aforesaid,* That the said commissioners are hereby authorized to appoint some discreet and judicious citizen, a resident of Georgetown, town bailiff; the said bailiff shall have all the powers and authority, within the limits of said town, of a constable of the State of Delaware in and for Sussex county, as to the cognizance of all breaches of the peace and other offences within said town, and shall hold his office subject to the option of the commissioners, and his fees and emoluments shall be the same as those of constable for like services, *provided*; that he shall not serve any civil process except to carry out the provisions of this act. It shall be the duty of the said alderman, commissioners, and bailiff, or of any justice of the peace and constable of Sussex county, residing in said town, to suppress all riotous, turbulent, disorderly, or noisy conduct of any person or persons, or disorderly or noisy assemblages, or gatherings of any person or persons in the streets, lanes, or alleys of the said town, or in any house situated therein, after night, or on the Sabbath day, or at any other time or season whatever, and for this purpose it shall be the duty of the said bailiff, or any constable, upon the requisition of the alderman, or of any one of the said commissioners, and without further warrant, forthwith to seize and arrest any such person or persons so offending, and to carry him or them before the said alderman, or any justice of the peace resident in said town, and upon conviction before the said alderman, or justice of the peace as aforesaid, (whose duty it shall be to hear and determine the case), the said alderman or justice of the peace shall sentence any such person or persons so convicted

Town bailiff authorized.

Powers.

Fees.

Disorders to be suppressed.

Proceedings herein.

to pay a fine not exceeding ten dollars, and commit the party to the public jail of Sussex county for any period not more than five days, or until said fine and the costs be paid. It shall be the duty of the said alderman, or justice of the peace, upon complaint made before him of any such riotous, turbulent conduct as aforesaid, or noisy assemblages, to issue his warrant to the said bailiff or constable, commanding him to bring any such person or persons so offending as aforesaid, before him for trial.

Bon-fires, &c., not to be allowed.

SECTION 14. *And be it further enacted as aforesaid,* That it shall be the duty of the said alderman, commissioners, bailiff, or justice of the peace, to suppress, extinguish and prevent all bonfires on the public square, or in any of the streets, lanes or alleys of the said town, and to suppress or prevent the firing of guns, pistols, or the letting off of fire-works, or the making or throwing fire-balls within the limits of the said town; and the said commissioners may enact and publish ordinances, with reasonable penalties, for preventing the same, and punishing persons guilty of their violation. Any fine imposed by any such ordinance may be collected before the said alderman or justice of the peace in the town, and, in default of payment, the said alderman or justice of the peace may commit to the public jail of the county for any time not more than five days. All fines and forfeitures realized under the provisions of this act by the alderman or justice of the peace as aforesaid shall be paid over to the treasurer for the use of the town. If any constable shall neglect or refuse to perform the duties above enjoined on him by this act, he shall be deemed guilty of a misdemeanor in office, and it shall be the duty of the commissioners to present him to the grand jury, and, upon conviction, he shall, in addition to the punishment imposed by the court, forfeit his office.

Ordinances to prevent the same.

Fines.

Penalty for neglect on part of Constables.

Certain acts repealed.

SECTION 15. *And be it further enacted,* That Chapter 190 of the 10th Volume of the Laws of Delaware, page 188, passed at Dover, February 20th, 1847, entitled, "An act to prevent horses from running at large in the town of Georgetown, in Sussex county;" and also Chapter 571 of the 10th Volume of Laws of Delaware, page 569, passed at Dover, March 3d, 1851, entitled, "A further supplement to an act for removing the seat of justice from Lewes to a more central part of Sussex county, and for other purposes;" and also Sections 2, 3, 4 and 5 of Chapter 651 of the 11th Volume of the Laws of Delaware, page 742, passed at Dover, February 24, 1859, entitled, "A further additional supplement to the act entitled, 'An act for removing the seat of justice from Lewes to a more central part of Sussex county, and for other purposes;'" and also Chapter 304 of the 12th Volume of the Laws of Delaware, page 330, passed at Dover, March 18th,

1863, entitled, "A further additional supplement to the act entitled, 'An act for removing the seat of justice from Lewes to a more central part of Sussex county, and for other purposes;'" and also all other acts or parts of acts inconsistent with this act, be and the same are hereby repealed.

Passed at Dover, March 2, 1869.

CHAPTER 474.

TOWN OF SMYRNA.

A Supplement to the Act entitled, "An Act in Relation to the Town of Smyrna," passed at Dover, February 25, 1859.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring),* That it shall and may be lawful for the citizens of the town of Smyrna, having a right to vote for town commissioners, to elect, by ballot, at the same time in which the commissioners are elected, an alderman for said town, who shall hold his office for one year from the time of his election, and until another is elected and qualified. It shall be his duty to execute all laws and to carry into effect all the lawful orders and directions of the town commissioners made in pursuance of any law of this State, or of any ordinance that the said town commissioners may make and establish. He shall have all the powers of a justice of the peace within the town of Smyrna, and shall have jurisdiction and cog-

Election of Alderman.

Official term.

Duties.

Powers.

nizance of all breaches of the peace and other offences in said town so far as to arrest and hold to bail, or fine and imprison offenders, and of all fines, forfeitures and penalties, which may be prescribed by any law of this State or by any ordinance of the town commissioners regularly passed and established for the government of the town, and of all neglects, omissions, or defaults of any officer or person whose duty it may be to collect, receive, pay over, or account for any money belonging to said town, or to execute or obey any law or ordinance thereof; *provided*, that he shall not impose any fine exceeding ten dollars, or have jurisdiction in civil matters exceeding one hundred dollars exclusive of costs. His fees for any service under this section shall be the same as those of a justice of the peace for a like service. The fee upon every conviction of a riotous, turbulent, noisy, disorderly or drunken person, shall be one dollar, and the constable shall also be entitled to a fee of sixty cents, the said fees to be paid by the person convicted, and for any service or duty for which no fee may be provided by law, the fee may be established by the ordinance of the town commissioners.

Limit on amount of fines and on jurisdiction in civil cases

Fees.

Constable, his duties, powers and fees.

SECTION 2. The town commissioners shall appoint a high constable and such other police officers for said town as they may deem proper, and the said high constable shall receive the same fees and possess like powers within said town as are possessed by the constables of Kent county, and he and the police officers shall assist the alderman in carrying into effect the ordinances of the town and the laws of the State of Delaware. Process issued by the said alderman may be issued to the sheriff of any county or any constable, whose duty shall be to execute the same in like manner, and be subject to the same penalties as in other cases.

To whom process may be issued.

Loan authorized.

SECTION 3. The town commissioners shall have full power to borrow, on the faith of the town of Smyrna, not exceeding the sum of ten thousand dollars, and to issue the bonds of the town for the same in such amounts as they may deem best.

Vacancies.

SECTION 4. All vacancies occasioned by death, resignation or otherwise, among the town commissioners or alderman, shall be filled by the remaining commissioners.

The present commissioners authorized to appoint Alderman.

SECTION 5. The present town commissioners shall elect a suitable person as alderman, who shall serve until the next election, to be held on the first Monday in March, A. D. 1870, and until his successor is elected and qualified.

Powers of commissioners in relation to streets, &c.

SECTION 6. The town commissioners shall have full power and authority, and they are hereby authorized and empowered, from time to time and as occasion may require, upon the application of twenty or more freeholders residing within said town, further

to extend or widen any street, road, square, lane, or alley of said town, and likewise to lay out and open all other necessary new streets, roads, squares, lanes, or alleys, within said town; *provided*, that no new street, road, square, lane, or alley, shall be laid out, opened, widened, or extended, but by virtue of and pursuant to an ordinance of the town commissioners for that purpose, made by the consent of two-thirds of the members thereof, and before any property or ground shall be taken or occupied for the purpose of extending, widening, laying out or opening any street, road, square, lane, or alley, the owner or owners of such property shall be paid or tendered such damages as they shall respectively be entitled to receive, to be ascertained by five impartial freeholders residing in the town of Smyrna, or a majority of them, to be summoned by the high constable of said town in pursuance of a warrant or precept under the hand of the alderman, who is hereby authorized and required to grant the same, and [to] which the said high constable is hereby required to pay due obedience, and the said freeholders shall view the property or ground to be so taken or occupied, and taking into consideration the advantage as well as the disadvantages which may arise to the property, they, or a majority of them, shall assess the damage which might be done to the said property, and return the same under oath or affirmation to the town commissioners, who shall cause such return to be entered on their journal, and upon payment or tender of the said assessed damages to the owner or owners of the property the said property may be taken or occupied. The party not satisfied shall have the right, by paying the costs on the first view, to demand a second view of the same premises by five other men summoned as aforesaid, whose decision shall be final.

New streets, &c., not to be opened without consent of two-thirds of commissioners.

Tender of damages.

Damages, how ascertained.

Freeholder to view the property.

Return.

Second view

Their award shall be made within twenty days from the time of notifying them to meet. The damages which may be assessed upon the occasion of opening any new street, road, lane or alley, shall be paid out of the town funds, and in case any such owner or owners in whose favor such damages are assessed shall be a minor, non-resident, or shall refuse to receive or be incapable for any cause of receiving the same, such damages may be deposited in the Bank of Smyrna to the credit of such person or persons and subject to his or their order, and such deposit shall operate as payment. The said freeholders shall severally receive and be allowed for each day's actual service the sum of two dollars.

Award, when made.

Out of what funds damages are to be paid.

Damages to non-residents and others, where deposited.

Compensation to freeholders.

SECTION 7. The compensation of each member of the commissioners of the town of Smyrna shall be twenty-five dollars per annum, and that all of Section 6 of the act to which this is a

Compensation of commissioners.

11 Vol. 774, Sec. 6 stricken out. Section 10 amended.

supplement, passed February 25, 1859, be and the same is hereby repealed, and the above Section 6 be inserted in lieu thereof; that the word "commissioners," in the second line of Section 10, be stricken out and the word "alderman" inserted; that the words "upon the requisition of any one of said commissioners and," in lines eight and nine of same section, be stricken out; that the words "before the alderman and in his absence" be inserted after the word "them" and before the word "before" in line eleven of said section; that the words "alderman or" be inserted after the word "said" and before the word "justice" in line thirteen of said section; that the words "alderman or" be inserted after the word "said" and before the word "justice" in line fourteen of said section; that the words "alderman and in his absence" be inserted after the word "said" and before the word "justice" in line eighteen of said section; strike out all the words after the word "trial," in lines twenty-two, twenty-three, twenty-four and twenty-five of said section; that the word "commissioners," in the second line of Section 11, be stricken out and the word "alderman" inserted; that the words "the alderman or in his absence" be inserted after the word "before" and before the word "any" in line ten of said section, and the words "the alderman or in his absence the" after the word "the" and before the word "justice" in said section.

Section 11 amended.

Passed at Dover, April 7, 1869.

CHAPTER 475.

TOWN OF DOVER.

12 Volume, 89.
SEC. 1. Taxation authorized to raise a certain annual sum.
SEC. 2. Inconsistent laws repealed.

12 Vol. 89.

A Supplement to the Act entitled, "An Act in relation to the Town of Dover," passed at Dover, February 28, 1861.

Taxation authorized to raise a certain annual sum.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of each branch of the Legislature concurring),* That it shall be lawful for the alderman and commissioners of the town of Dover, and they are hereby authorized and empowered to raise

by taxation, for the use of the said town of Dover, annually and every year, according to the provisions of the act to which this is a supplement, a sum of money not greater than one thousand dollars nor less than two hundred dollars.

SECTION 2. *Be it further enacted as aforesaid,* That so much of the provisions of Section 19 of the "Act in relation to the town of Dover," passed February the 28th, 1861, to which this is a supplement, as are inconsistent with or supplied by this act, be and the same are hereby repealed, made null and void. Inconsistent laws repealed.

Passed at Dover, April 2, 1869.

CHAPTER 476.

CAMDEN INCORPORATED.

CONCERNING CITIES AND TOWNS.

An Act to Incorporate the Town of Camden.

Election of commissioners, assessor and treasurer.

When held.

By whom held.

Voters.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That an election be held in the Town of Camden, Kent county, on the second Monday in March next, and on the same day yearly, from 2 till 4 o'clock P. M., for three commissioners, an assessor and treasurer, who shall be resident freeholders in said town. The votes shall be received by the justice of the peace oldest in commission in said town, at his office, and the result of the balloting shall be ascertained by the said justice and two citizens of the said town selected by himself to assist in holding said election. At said election every person within the limits of said town,

having a right to vote at the general elections in this State, shall have the right to vote. The said justice hereby declared to be the alderman of said town, and two citizens aforesaid, shall be the judges of said election and decide on the legality of the votes offered. Immediately after the election is closed the votes shall be counted, and the commissioner having the highest number of votes shall be declared elected for three years and until his successor be duly qualified; and the commissioner having the next highest number of votes shall be declared elected for two years and until his successor be duly qualified; and the commissioner having the next highest number of votes shall be declared elected for one year and until his successor be duly qualified; and the persons having the highest number of votes as such shall be declared elected assessor and treasurer for one year and until their successors be duly elected and qualified. In case [of] a tie vote for such commissioners, assessor and treasurer voted for at the first election, the said justice and two citizens aforesaid shall decide by their ballots who shall be commissioner for three years, who for two years, and who for one year, as also who shall be assessor and who treasurer for one year and until successors be duly elected and qualified. The said justice and the two citizens aforesaid shall not vote for commissioners, assessor and treasurer at the said first election except in case of a tie vote, as herein provided. Immediately after such election, and all subsequent elections under this act, the person or persons under whose superintendence such election is held, shall enter in a book, provided for that purpose, a minute of the same, showing the name or names of the person or persons chosen commissioner or commissioners, also the names of the persons chosen assessor and treasurer, and shall subscribe the same and give to each the persons so elected written notice thereof. The book containing the minutes of such proceedings shall be kept by the alderman and shall be evidence. At every election subsequent to the first herein provided for, there shall be elected, in addition to an assessor and treasurer, one member of the town commissioners, to serve for the term of three years, as a successor to the member whose term of office shall at that time expire, and shall likewise elect to fill vacancies or unexpired terms occasioned by death, removal, resignation or otherwise, of said commissioners. At all such subsequent elections the said alderman and two citizens aforesaid, qualified in other respects, may vote for commissioner, assessor and treasurer.

Alderman. Judges of election. Terms of office. Tie vote. How decided Justice of Peace and judges not to vote at first election. Exception. Minutes of election. By whom kept. Election of commissioners after first election. Term. Vacancies. Alderman and judges may vote.

SECTION 2. *And be it further enacted*, That the commissioners first elected shall, as soon as convenient after notice of their election, employ a surveyor, if necessary, and cause to be sur-

Commissioners shall employ surveyor.

veyed and plotted the said Town of Camden, establishing boundary lines, and marking and describing on said plot the streets, roads, alleys, lanes, or other passes, the ditches, water-courses and ponds of water, the low and swampy grounds or bogs, and shall, when such service is performed, return said plot, with proper description and explanations, under their hands, or the hands of a majority of them, to the Recorder's office at Dover, there to be recorded, and the original, as also the record, or a certified copy thereof, shall be evidence. All the commissioners shall act, but the decision of a majority shall govern. The said commissioners, also the surveyor, shall be severally sworn or affirmed to discharge their duties faithfully and impartially and according to the best of their skill and judgment; and the said return shall show that this qualification was complied with. The alderman may qualify the said commissioners and the surveyor, or they may qualify each other to the performance of their several duties.

Plot, what to state.

Return to Recorder.

To be evidence.

All commissioners shall act.

Majority shall govern

Oath.

Return shall show oath.

Who may qualify.

Town not to be extended beyond certain limits.

SECTION 3. *And be it further enacted,* That the commissioners first elected, as aforesaid, shall not, in the direction of the Delaware Railroad, extend the limits of said town west of the public road now dividing lands of Josiah Besemer, Prince N. Caldwell and others on the east from lands of Samuel Copper, William McGonigal and others on the west thereof; nor shall any lands west of John Woodall's ten-acre mill-pond lot and north of the public road leading from said Woodall's lot to Wyoming be included within said limits.

Commissioners incorporated.

SECTION 4. *And be it further enacted,* That the commissioners first elected pursuant to the provisions of this act shall be and they are hereby created a body politic and corporate in law, and the said commissioners and their successors shall be able and capable of suing and of being sued, pleading and being impleaded in all courts of this State by the corporate name of "The Commissioners of the Town of Camden," and may purchase, take, hold and enjoy lands, tenements and hereditaments in fee simple, or for other estate, and also goods, chattels, rights and credits, and may alien, grant, demise and dispose of the same as they may deem proper, and may do all other things which a body politic and corporate may or can lawfully do to carry out and fully effect the object and purpose of this act.

Powers.

Name.

May hold real estate.

Personal property.

Other powers.

Commissioners to oversee streets, &c.

SECTION 5. *And be it further enacted,* That the said commissioners and their successors in office, or a majority of them, shall have the superintendence and oversight, management and care of all streets and roads, alleys, lanes, sidewalks and passes now made and constructed, or opened, or hereafter to be made, constructed or opened within the limits of said town, and no overseer of any

of said roads or streets shall be appointed by the Levy Court of Kent county, but the said Levy Court shall annually appropriate a sum of money not less than one hundred dollars, and shall make an order for the payment thereof to said commissioners, which sum so appropriated shall be expended by said commissioners upon the roads and streets aforesaid; and the said commissioners shall annually account to the Levy Court for the money so appropriated in the same manner as overseers of roads in said county. Any one of said commissioners, or the assessor, if so required to act, shall be allowed and receive for each day of actual service or superintendence of said roads or streets the sum of one dollar and fifty cents, and for each half day the sum of seventy-five cents; but no compensation shall be allowed for any fraction less than half a day: *Provided* that such superintendent, while rendering such service, shall be allowed and receive one-half the above fees or compensation if there be fewer than five employees or workmen at a time under his care or charge.

No overseer to be appointed.

Annual appropriation by Levy Court.

How expended.

Account to Levy Court.

Fees.

Proviso.

SECTION 6. *And be it further enacted,* That the commissioners for the time being, or a majority of them, shall have the power, upon application of ten or more citizens, taxables as aforesaid, by petition to them in writing for that purpose, to locate, lay out and open any new street or streets, road or roads, within said town limits, allowing to the owner or owners, holder or holders respectively, through, along or over whose grounds such new street or streets, road or roads may run, such compensation therefor as they, or a majority of them, may deem just and proper under the circumstances; which compensation, if any allowed, shall be paid out of any money belonging to said town by the treasurer on order drawn on him by the commissioners. And the said commissioners, in making allowances as aforesaid, shall take into consideration all circumstances of benefit or injury, public or private, consequent to the making and opening such street or road.

Laying out new streets.

Damages.

To be paid by Treasurer.

SECTION 7. *And be it further enacted,* That whenever the commissioners shall have proceeded to locate and lay out any new street or road and shall have fixed the compensation therefor, it shall be their duty, immediately after the survey and location of the same, to notify, in writing, the owner or owners, proprietor or proprietors of the real estate through, along or over which such new street or road may run, of their determination to open the same, and to furnish a general description thereof, and also the amount of such damages or compensation, if any, allowed to each, and if such owner be not resident within said town, then to notify the holder or tenant of said real estate affected as afore-

Notice to owners of laying out new streets.

Description of street and amount of damages.

Notice to tenant.

said. If any owner be dissatisfied with the determination to lay out and open such new street or road, or with the amount of the compensation or damages allowed, he, she or they may, within ten days after receiving notice from the commissioners as aforesaid, appeal from said determination or assessment of damages, or both, by serving written notice to that effect on the said commissioners or some one of them. In order to prosecute said appeal such owner or owners shall, within ten days after the expiration of the ten days allowed for appeals, apply to the alderman in said town, who shall, within five days thereafter, and upon notice to the said commissioners or some one of them, select and write down, on a list, the names of eleven judicious and impartial freeholders, six of whom shall be freeholders within the limits, and the remaining five shall be freeholders without the limits of said town. The said commissioners, or some one of them shall, upon receiving such notice from the alderman, immediately notify all persons owning or holding real estate on the said street or road, and residing in said town, and appellants as aforesaid, of the time and place when and where the said names will be selected, and at the time and place mentioned in the notice of the said alderman, the said appellants, or as many of them as choose, and the said commissioners, shall attend. The appellants, their agent or attorney, shall first strike out one of the said names, and the commissioners, or any one of them, their agent or attorney, shall strike out another, and so on until each shall have struck three from said list; such striking shall be so confined and regulated as to leave the five remaining freeholders located as follows, viz: three resident in said town and two residing out of said town, who shall constitute the freeholders to determine concerning the necessity of said street or road, and who shall assess the damages of the owners or holders of the real estate through, along or over whose grounds the said street or road shall run; and their doings shall be final when certified to the said alderman or commissioners, or both, which certificate shall be preserved and copied upon the book or books of the said town containing other and like proceedings, and the same shall be evidence. In case either side, commissioners or appellants, be not represented before the alderman, or shall neglect or refuse to strike, as herein provided, the said alderman, or such person or persons as he may name and appoint for that purpose, shall strike for the party or parties so absent, neglecting or refusing, observing that such striking shall be confined and regulated as hereinbefore provided. Any party, appellant or commissioner, may, within ten days after the appointment of said freeholders, and upon due notice to the other parties resident in said town, or in case of non-residents, notice to the holders or tenants of any real estate, call out the

Appeal.

Notice to commissioners.

Manner of selecting freeholders to decide appeal.

Qualifications of freeholders.

Notice of time and place for selecting freeholders.

Challenges.

How confined.

Proceedings final.

Certificate.

To be evidence.

Refusal to challenge.

By whom freeholders may be called out.

said freeholders, who shall thereupon proceed, upon oath or affirmation, to make due inquiry concerning the necessity of such street or road, and in case they deem such street or road to be needful, then they shall assess the damages to the several owners affected thereby. Their award shall be made within twenty days from the time of notifying them to meet. If any freeholder thus appointed and notified shall neglect or refuse to serve, he shall forfeit and pay the sum of five dollars, to be recovered with costs in an action of debt before any justice of the peace of Kent county, in the name of the town commissioners, for the use of the said town. If the award of the freeholders shall be against the necessity of any such new street or road, then no petition for any such new street or road so condemned or disallowed shall be entertained by the commissioners during one year from the time of such condemnation or disallowance. The act of a majority of the said freeholders shall be as good and effectual as the act of the whole of them in making such award or assessment of damages.

Oath.

Damages.

Award, when made.

Penalty for refusal to serve.

How recovered.

If award against new street, new petition not to be received for one year.

Act of majority sufficient.

SECTION 8. *And be it further enacted,* That if on any such appeal the award shall be against the necessity of a street or road, or the freeholders shall increase the damages of any appellant, then the costs of the appeal shall be borne by the town. But if the freeholders shall affirm the necessity of the street or road, and shall not increase the damages of any appellant, then the costs shall be paid by the appellants equally. The fees of the freeholders shall be one dollar each for each day they may be called or required under this act.

Costs of appeal, how borne.

Fees of Freeholders

SECTION 9. *And be it further enacted,* That the damages which may be assessed upon occasion of opening any new street or road shall be paid out of the town funds, or duly tendered, before the property of any person or persons in whose favor the damages are assessed shall be appropriated for the opening of any such street or road, and in case any such owner or owners shall be a minor, non-resident, or shall neglect, refuse or be incapable for any cause of receiving the same, then such damages may be deposited in any bank of Kent county to the credit of such person or persons, and be subject to his, her, or their order, and such deposits shall, in all cases, operate as payment.

Damages, how paid.

When.

In certain cases may be deposited in bank.

Effect of such deposit.

SECTION 10. *And be it further enacted,* That the commissioners, or a majority of them, shall and they are hereby authorized and directed to require the owner or owners, proprietor or proprietors of any house or land within said town, before or in front of which they may deem proper that a pavement should be made, or ornamental or shade trees be planted, to make and lay such pavement of bricks or smooth stones of such width, and to plant

Commissioners to direct owners to make pavements and plant trees.

and protect such shade trees as they may specify in such order or directions, and if such owner or owners, proprietor or proprietors shall neglect or refuse, for the space of sixty days after being directed as aforesaid, to lay such pavements and plant out such trees with good and sufficient curb or curbs, it shall and may be lawful for the said commissioners, and they, or a majority of them, are authorized and directed to make or cause to be made such pavement or curbs, or both, or to plant out such shade trees, and to recover the costs of making and doing the same by the distress and sale of any the goods and chattels, lands and tenements belonging to such owner or owners, proprietor or proprietors, within the limits aforesaid. If any pavements, sidewalks, ornamental or shade trees, or curbs already made and planted, shall at any time by said commissioners, or a majority of them, be deemed insufficient, they, or a majority of them, shall have the power, and they are hereby required to direct, in writing, the owner or owners, proprietor or proprietors thereof, to make good and sufficient the same, and upon neglect or refusal so to do for sixty days, the said commissioners, or a majority of them, shall cause the same to be done, and they shall recover the costs and expenses incurred therefor in the same manner as above provided in cases of new pavements, curbs, &c. Notice to one co-tenant or co-proprietor shall be notice to all, and in case no owner or proprietor shall reside in the town, notice to the agent or tenant shall be deemed notice sufficient to such owner or proprietor. The said commissioners, or a majority of them, may cause such sidewalks, or such portions thereof remaining unpaved, to be covered with gravel, sand or dirt, if they deem them not proper to be paved, and shall cause them to be put and kept in good order for the convenience of the citizens of said town and the public generally. They may cause flag-stones to be put down at the crossings of the streets wherever they may think needful, the cost of which shall be defrayed out of funds of the town.

In case of refusal of owners, commissioners to cause such paving and planting to be done.

Costs, how recovered.

If pavements, trees, &c., insufficient, Commissioners to direct owners to make them sufficient.

Upon refusal commissioners shall cause the same to be done.

Costs, how recovered.

Sufficiency of notice.

Sidewalks remaining unpaved, to be covered with gravel, &c.

Crossings.

Costs, how defrayed.

SECTION 11. *And be it further enacted,* That the commissioners for the time being, or a majority of them, shall have the power, upon the application of five or more citizens of said town, taxables as aforesaid, by petition to them for that purpose, to lay out, cut and open any ditch, drain, or water course within the limits aforesaid, petitioned for as aforesaid, allowing to the persons respectively through whose lands the same may run such compensation therefor as they shall deem just and reasonable, or otherwise assess to such owners and holders of such real estate rateably the costs, or a part thereof, of making and opening such ditch or drain, if benefits or exhanced value shall be the result thereof to their lands.

Upon petition, may cut ditches, &c.

Damages to owners.

Assessment of costs.

CONCERNING CITIES AND TOWNS

SECTION 12. *And be it further enacted,* That the said commissioners, petitioned as provided in Section 11 of this act, shall proceed to view the premises, and shall determine concerning the same; and if they, or a majority of them, shall determine that any ponds of water, pools, marshy, or swampy, or otherwise low and wet grounds are in any way deleterious to the health of any citizens, or that the same in any manner is unsightly, or should be drained or improved, then and in that case it shall and may be lawful for the said commissioners to notify the owner or owners of the real estate through or along which a ditch, drain, or water-course should run, of their determination to open the same, whereupon they shall, with the assistance of a surveyor, if necessary, mark out the route and specify the courses and distances and width of every ditch, drain, or water-course they shall lay out, the estimated cost of making the same, the damages, if any, and to whom payable and by whom paid, and the proportion which each person benefited shall pay, or, injured, shall receive by or in consequence of the same. They shall make return, in writing, to the alderman, accompanied with a plot delineating the same, setting down the several items of costs in the proceedings, as also the names of the persons as whose lands are affected thereby and their damages and awards. The surveyor shall be sworn or affirmed to the faithful and impartial discharge of his duty. The right time and mode of appeal under this Section shall be the same as provided under Sections 7 and 8 of this act, and applicable to the laying out and opening new streets or roads. The plot and assessments made pursuant to any proceedings under this section, shall be duly recorded in a book or books, as mentioned under Section 7 of this act, and the said commissioners shall subscribe their names to said return.

Ponds, pools, &c., to be drained.

Notice to owners.

Surveyor.

Route, &c., of ditch to be marked out.

Cost, damages, &c.

Return.

Plot, what to state.

Oath of Surveyor.

Appeal.

Plot and assessments to be recorded.

SECTION 13. *And be it further enacted,* That it shall be the duty of the commissioners of Camden, and of any justice of the peace and constable residing in said town, to suppress all riotous, turbulent, disorderly or noisy assemblages or gatherings of persons in the streets, lanes, or alleys of the said town after night, or at any other time, place, or season whatever; and for this purpose it shall be the duty of the said constable, upon the requisition of any one of said commissioners, and without further warrant, forthwith to seize and arrest any such person or persons so offending and arraign him, her or them before the alderman or any justice of the peace residing in said town, and upon conviction before the said alderman or justice (whose duty it shall be to hear and determine the case), shall be sentenced to pay a fine not exceeding five dollars and costs, and such person or persons shall be deprived of holding any office of trust or profit,

Suppression of riotous assemblages

Constable, upon requisition of commissioners, to arrest without further warrant.

Hearing before Alderman or Justice of the Peace.

Fine and costs.

Disqualification to hold office or vote under this act, until paid.

Alderman to issue warrant to Constable.

Fees.

Disqualification.

May be committed.

or of voting at any election mentioned and provided for in this act until such fine and costs be fully paid. It shall be the duty of said alderman or justice of the peace, upon complaint made before him of any such riotous, turbulent or noisy assemblages or gatherings as aforesaid, to issue his warrant to the constable, commanding him to arraign such offending person before him for trial. Upon every conviction under this section the alderman or the justice and the constable shall each be entitled to a fee of one dollar, to be paid by the person convicted, and such person shall not be allowed to vote at any election held in virtue of this act till such fine and costs be fully paid, or otherwise, in the discretion of said alderman or justice, may be committed to the common jail of Kent county for a time not longer than five days.

Bonfires, firing of guns and fire works to be prevented.

Knocking of balls, &c.

Officers may license display of fire-works, batting of balls, &c.

Application for, what to state.

Not to prohibit burning brush, &c.

Violation of this Section.

Penalty.

Default of payment.

SECTION 14. *And be it further enacted,* That it shall be the duty of the alderman or any justice of the peace, constable, or police officer in said town to suppress, extinguish or prevent any and all bon-fires, and to suppress and prevent the firing of guns, pistols, or letting off any fire-works, or the pitching, tossing or throwing of any fire-balls, fire-crackers, or other display or demonstration of the same, or either or any of them, within the limits of said town; also to suppress and prevent the tossing, pitching, throwing or knocking of balls, bats, clubs or other missiles of any kind or description, at any time or place within said limits: *Provided, however,* the commissioners, alderman, assessor and treasurer may license such demonstration or display of fire-works, and such tossing, or throwing, or knocking, or batting of balls, on application to them, in writing, for that purpose, specifying the time when and place where such demonstrations, displays and sports may be had and performed. The prohibitions and restrictions under this section are not intended to affect the practice of burning stalks, brush or litter designed to clear up and prepare for the cultivation of lots and gardens in said limits. Any person violating any [of] the provisions under this section enumerated shall, on conviction before the alderman, or any justice of the peace in said town, forfeit and pay a fine not exceeding five dollars, to be imposed by the said alderman or justice, and shall pay the costs, which shall be the same as in Section thirteen of this act, and in default of payment shall be committed to the town jail, if any, if none, to the common jail of Kent county, not longer than five days.

Penalty for neglect of duty on part of Alderman, Justice of the Peace, and Constable.

SECTION 15. *And be it further enacted,* That if the said alderman, or any justice of the peace or constable in said town shall neglect or refuse, after acceptance of the care, charge, or trusts, to do and perform any duty enjoined on him or them by this act, faithfully and diligently, he or they shall be deemed guilty of a

misdemeanor in office, whereupon it shall be the duty of the commissioners, or any one of them, the assessor, or treasurer, to present him or them to the grand jury, and, upon conviction, he or they shall, in addition to the punishments which may be imposed by the court, forfeit his office and pay a fine of twenty dollars to the town treasurer for the use of the town. Such fine may be collected before any justice of the peace in Kent county as debts of like amount are by law collectable, with costs.

Fine, how recovered.

SECTION 16. *And be it further enacted,* That the commissioners shall have full power and authority to make such regulations and ordinances relative to the traveling over and upon said streets and to the use thereof, also relative to the standing and placing of carts, carriages, wagons and other vehicles, or other obstructions, in and upon said streets, lanes, alleys and sidewalks, also as to the running about or otherwise straying or ranging around of any horse, cow, hog or other brute animal in said streets, roads, alleys, lanes and passes in said town, which they, or a majority of them, may deem proper to prevent, in order to secure a free and unobstructed enjoyment and use of the same. And if any person shall violate any of the regulations or ordinances in that behalf, he, she or they shall forfeit and pay to the town treasurer, for the use of said town, the sum of one dollar, and in default of payment shall be recovered with costs as hereinbefore provided for debts of like amount. The fees under this section, or under any regulation or ordinance established by reason of the authority hereby given, shall be the same as section thirteen of this act.

Commissioners to make regulations concerning traveling, obstructions and horses, &c., on streets.

Penalty for violation of regulations.

How recovered.

Fees.

SECTION 17. *And be it further enacted,* That the commissioners be and they are hereby authorized and required to cause any and all nuisances and obstructions that may exist and be at any time and place within said limits to be removed, suppressed or abated. The said commissioners shall have power to define and pronounce what does and what does not constitute a nuisance or obstruction under this act. The said commissioners, or a majority of them, may proceed, either upon their own view or upon complaint of any citizen taxable, stating the character of such nuisance or obstruction and where the same exists. If they, or a majority of them, upon such proceedings, shall determine that an obstruction or nuisance exists and ought to be removed, suppressed or abated, they shall give notice, in writing, to the person or persons causing or suffering the same, or who is responsible for its continuance or existence, to remove, suppress or abate the same; and if such notice or instructions be not obeyed and complied with within the time named, then the said commissioners shall proceed to remove or abate such obstruction or nuisance

Nuisances and obstructions to be removed.

When commissioners may proceed.

Notice to remove.

If not removed commissioners shall abate

Person neglecting, to pay double costs.

How recovered.

Fees.

without further delay, and may recover from the person or persons so neglecting or refusing double the charge or costs of such removal, and may proceed before the said alderman or any justice in the said town for such sum or double charge and recover the same with costs of suit. The fees to the justice, or alderman, and constable shall be the same as in Section thirteen of this act.

Jail authorized.

Persons convicted may be committed to said jail.

SECTION 18. *And be it further enacted,* That the said commissioners, by and with the advice and consent of a majority of the voters of said town, shall have authority to build, construct and maintain a suitable place as a prison or jail, for the use of said town; and the said alderman, or any justice of the peace, acting under any provision of this act, or carrying into execution any judgment or sentence pronounced under its authority, or the authority of any ordinance or regulation adopted by virtue of the power hereby conferred, may commit to the said prison or jail for any time not exceeding five days, and for want of such prison or jail to the common jail of Kent county.

Commissioners to direct use of money in treasury.

Proviso.

SECTION 19. *And be it further enacted,* That the commissioners, or a majority of them, shall have the authority to direct the use and employment of the money, or any part thereof, in the treasury of said town for the general improvement, benefit and ornament of the same, as they may deem most advisable; *Provided* nothing herein contained shall be construed to warrant the application of said money, or any part thereof, solely to private uses and without benefit to said town in general.

Assessment.

To be delivered to commissioners.

Transcript to be hung in suitable place, when.

For what time.

Appeals.

Notice of posting list,

SECTION 20. *And be it further enacted,* That the assessor of the said town, being first qualified, shall annually, during the month of March, make a true, just and impartial valuation and assessment of all the real estate within said town; also an assessment of all male citizens residents of said town and above the age of twenty-one years, as well those owning as those not owning real estate in said limits; and the said assessment shall, immediately after its completion, be delivered to the commissioners for the time being for their inspection. The said commissioners shall, between the first and fifth days of April in each year, cause a full and complete transcript of said list of assessment, to be hung in some suitable and convenient place in said town, there to be and remain for at least five days for public inspection; and the said commissioners, or a majority of them shall, on the first Monday next after the expiration of said five days, sit together, at some suitable and convenient place, as a court of appeal, which shall continue open from two till four o'clock, P. M., of said day, when they shall hear and determine appeals from said assessment. There shall be posted in at least five of the most conspicuous

places in said town written notices of the hanging up of said list and of the time and place of hearing appeals. The decision of the commissioners on appeals shall be final. They may, but shall not be required to hear and determine any appeals after the hour of four o'clock aforesaid. After the valuation and assessment shall have been examined and adjusted by the said commissioners, all the taxes shall be levied, assessed and raised on the real estate and personal thus valued and assessed in just and equal proportions and rates.

Decisions final.

Limit of appeal.

SECTION 21. *And be it further enacted,* That the commissioners, after ascertaining and judging the sum of money (not less than one hundred and fifty dollars, nor more than three hundred dollars,) necessary to be raised by taxation on the persons and property in said town for the purposes thereof in any one year, and having apportioned the same on the assessment and valuation aforesaid shall, yearly, in the month of April, furnish the treasurer of said town with a list containing the names of the taxables, as well the owners of real estate as those not owning real estate, and opposite the names of each the amount of his real estate and his personal assessment, distinguishing between them, and also the tax levied on each person, also the tax levied on the whole valuation and assessment and the rate per hundred dollars. The said list shall be signed by the commissioners, or a majority of them. The treasurer, immediately after receiving the list, shall proceed to collect the taxes mentioned therein, and shall have all the powers as are by law conferred upon the collectors of the county taxes. The treasurer shall receive, have and hold all the moneys due or belonging to said town, and shall pay all orders drawn upon him by the commissioners, which orders shall always state to whom payable and for what object or purpose, showing such order to have been drawn for the use and benefit of the town. The treasurer shall deliver and pay over to his successor in office, when duly qualified, all moneys, books, papers and effects under his charge and care and belonging to said town. Before entering upon the duties of his office he shall give bond, with sufficient security, in a penal sum in the discretion of the commissioners, not less than five hundred dollars, conditioned for the faithful performance of the trusts reposed and duties imposed upon him by this act. He may be required to settle his accounts and submit the same and his books and papers to the inspection and examination of the commissioners at any time. The treasurer, also the assessor, shall each receive a reasonable compensation for their services, to be allowed by the commissioners.

List of taxables to be furnished Treasurer.

What to state.

To be signed by commissioners.

Treasurer to collect tax.

Powers.

To receive moneys belonging to town.

To pay orders.

To deliver to successor, money, papers, &c.

Bond.

Settlement with commissioners.

Compensation of Treasurer and Assessor.

SECTION 22. *And be it further enacted,* That if a vacancy or vacancies shall at any time happen among the commissioners,

Vacancies, how filled.

assessor, or treasurer, by death, resignation or otherwise, the survivors of them and the alderman shall compose a board, with full power and authority to supply such vacancy or vacancies by appointment of suitable person or persons, freeholders in said town, who shall, when qualified, act until the next election and successors be duly elected and qualified. The said board (alderman, commissioners, assessor and treasurer,) shall have full power and authority to excuse, on application to them in writing, any member thereof (except the alderman,) from office, or may expel a member (except the alderman,) for sufficient cause, and supply, as aforesaid, until the next election, with suitable freeholders, residents of said town. To expel a member shall require the votes of four of said members. If any commissioner, assessor, or treasurer, after having become qualified as such, shall neglect and refuse to perform the duties of such commissioner, assessor, or treasurer, and wilfully absent himself without the consent of said board first had and obtained, he shall forfeit and pay, for the use of the said town, the sum of ten dollars, and the same shall be recovered before any justice in said town, with costs. The fee to the justice and constable under this section shall be the same as under Section thirteen of this act. Any commissioner, assessor, or treasurer failing, neglecting or refusing to become qualified for the duties of his office on or before the day of the annual meeting (third Monday in March,) shall be passed by and his election declared void, and the said board shall appoint a suitable freeholder in said town, who will serve and become qualified. The doings and acts of said board, under this section, shall, as to removals from office, resignations and supplying vacancies, be entered upon the book provided for such proceedings.

Term.

Board may excuse or expel member, except Alderman, and supply vacancy.

Penalty for neglect or refusal to perform duties.

How recovered.

Fees.

Election of commissioner, assessor, or treasurer, declared void on failing to qualify.

Vacancy to be filled by board.

Acts of board to be recorded.

SECTION 23. *And be it further enacted,* That it shall be the duty of the said commissioners to direct the assessor, in making out his assessment general, to include in a separate column therein all dogs kept or owned in said town, and the owner or keeper of any dog or dogs so included shall pay a yearly tax of fifty cents for one dog, and an additional tax of one dollar for each and every dog more than one; and the owner or keeper of any slut or bitch in said town shall pay a yearly tax of three dollars, and for every slut or bitch more than one shall pay an additional yearly tax of five dollars.

Tax on dogs.

SECTION 24. *And be it further enacted,* That there shall be an annual meeting of the commissioners, assessor and treasurer, (at which said meeting all taxables may attend,) held at some suitable and convenient place in said town, for the purpose of settlement of the accounts of the past year, and the payment and delivering

Annual meeting for settlement of accounts.

over all moneys, books and papers, or other property or effects belonging to said town to those last elected when duly qualified. There shall be at said annual meeting submitted a true and just report of the doings of the past year, setting forth the amount of money received from all sources, the names and amounts of delinquents, if any; also the expenditures, and how, for what purpose, and to whom made, as also the unexpended balance, if any, and how much, likewise the amount that may be owing, to whom, and for what purpose; and said report shall, before being read to said meeting, be examined by three impartial freeholders of said town, selected by the said alderman or justice. The said meeting may adopt or reject said report for cause shown. In addition to said annual meeting, there shall be three quarterly meetings of the commissioners, assessor and treasurer, on the third Monday in June, September and December, in each year, at either of which, or at the said annual meetings, the said commissioners shall make and establish such ordinances and by-laws as they may deem necessary to secure the further good government and regulation of said town, not, however, inconsistent with this act. If it should at any time happen that the alderman neglect or refuse to preside at any of said annual or quarterly meetings, the said commissioners present shall appoint a suitable freeholder in said town, who will serve as alderman *pro tem.*, and they shall appoint the assessor or any suitable person in said town as clerk or secretary at said meetings. Such appointment of alderman shall be entered upon the book for the recording certificates of elections.

Report for previous year, what to state.

To be examined, by whom.

Quarterly meetings.

To make ordinances, &c

Alderman, pro tem.

Secretary.

Appointment of Alderman to be recorded.

SECTION 25. *And be it further enacted,* That the said treasurer, on receiving the said list of tax, adjusted and corrected as hereinbefore provided, shall proceed to collect from the persons therein named the several sums of which they respectively stand assessed, and all sums so assessed and remaining unpaid after the first day of June in any year shall be collected with ten per centum additional. The commissioners may allow such delinquents as they, or a majority of them, may think proper.

Tax to be collected within what time.

Ten per cent. additional.

Delinquents may be allowed.

SECTION 26. *And be it further enacted,* That the alderman, at request of the commissioners, shall appoint a special constable to execute any [of] the duties required to be performed by the town constable. He shall act in the discharge of such duties under penalty of five dollars. The constable resident in said town shall be the town constable, who, with the special constable and such persons (not exceeding six in number,) as may be named and appointed at any the annual or quarterly meetings by the commissioners, shall constitute the police force of said town.

Special Constable.

Penalty for refusal to act

Town Constable.

Police.

Term of present commissioners.

Annual meeting.

To give up books, &c., to new commissioners.

SECTION 27. *And be it further enacted,* That the present commissioners shall remain in office until the first election provided for under this act, and they, or a majority of them, shall attend the first annual meeting, to be held on the third Monday in March, 1869, and surrender up the books, papers, moneys and effects belonging to the Town of Camden to the commissioners first elected under this act.

Chap. 652, Vol. 10, repealed.

SECTION 28. *And be it further enacted,* That the act entitled, "An Act to incorporate the Town of Camden," passed at Dover in 1852, be and the same is hereby repealed.

Public act.

SECTION 29. *And be it further enacted,* That this act shall be deemed and taken to be a public act, and shall be printed among the laws of this State.

Passed at Dover, March 4, 1869.

CHAPTER 477.

WYOMING INCORPORATED.

CONCERNING CITIES AND TOWNS.

An Act to Incorporate the Town of Wyoming, and for other purposes.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein),

SECTION 1. That William P. Lindale, Whiteley W. Meredith, John T. Jakes, Thomas Young and Charles P. Ramsdell are hereby appointed commissioners, whose duty it shall be, with the assistance of a skillful surveyor, to be by them chosen, to survey and lay down on a plot the Town of Wyoming, establishing its limits, and marking and describing its streets, alleys, lanes and sidewalks, and shall, when all the service is performed, return the plot under their hands to the Recorder's office at Dover, to be recorded, and the original and the record or certified copy thereof shall be evidence. All the commissioners must act, but the decision of a majority shall govern. The commissioners and surveyor, before entering on their duties under this section, shall take an oath or affirmation to discharge them with fidelity, and the aforesaid return shall show that this qualification was complied with.

Commissioners. Surveyor. To make plot. Plot to be returned to Recorder. To be evidence. All commissioners to act, but majority to govern. Oath.

SECTION 2. *And be it further enacted,* That the commissioners hereby appointed, and their successors in office, to be chosen as hereinafter provided, shall be a body politic and corporate in fact and in law by the name of the "Commissioners of Wyoming," and shall have full power and capacity to sue and be sued by that name. They shall, in addition to the powers hereinbefore conferred, have power to regulate the streets, lanes, alleys and sidewalks of said town, and may direct the latter, or such part thereof as they may determine, to be paved or otherwise improved at the expense of the owner of the ground adjacent; on complaint of any citizen, to examine any chimney, stove-pipe fixtures, or any other matter dangerous to the town, and if adjudged dangerous to require and compel it to be repaired or remedied; to prevent or remove nuisances therein; to prohibit the firing of guns or pistols, the making of bon-fires, or setting off of fire-works, or any dangerous sport or practice, and to prevent or suppress any noisy and turbulent assemblages within the town of any persons. They shall have power to prevent swine, horses and geese from running at large within the limits of said town, and

Incorporation. Name. Powers.

generally shall have and possess any and all powers which by any law or laws of this State are conferred upon the commissioners of the Town of Dover.

Term of commissioners.

SECTION 3. *And be it further enacted,* That the commissioners herein named shall continue in office until the second Saturday in April, A. D., 1869, on which day, in that year, and on the same day in each and every year thereafter, between the hours of two and four o'clock in the afternoon, an election shall be held for three commissioners, who shall reside within the limits of the said town, and be freeholders therein. The said election shall be held at the house now occupied by Peter Wentz as a hotel, and shall be held and conducted by two persons chosen by the voters present, who shall receive the ballots, ascertain the result, and certify the same to the old commissioners, to be by them entered in the books of the commissioners. At such election every white taxable person resident in said town (including unmarried females, who shall vote by proxy,) above the age of twenty-one years shall be entitled to vote.

Election.

Qualifications of commissioners.

Election, where held, and by whom conducted.

Certificate to old commissioners.

To be recorded

Qualifications of voters.

Stated meetings

SECTION 4. *And be it further enacted,* That there shall be four stated meetings of the said commissioners in every year, viz.: on the second Saturday in April, July, October and January, at which meetings they may pass and adopt all such ordinances and rules for the good government of the said town, the improvement of the streets, the paving or other improvement of the sidewalks, and all other matters relating to the said town, its policy, ornaments, improvement and general welfare, as by said commissioners may be deemed proper: *Provided* the same be not repugnant to the constitution or laws of this State or of the United States. By such ordinances they may impose fines, penalties and forfeitures, and provide for the collection of the same.

Ordinances and rules may be adopted

Proviso.

May impose fines, penalties, &c.

Commissioners to determine amount of tax.

SECTION 5. *And be it further enacted,* That the commissioners shall, at the first stated meeting in every year, determine the amount of tax to be raised in said town for that year, not exceeding three hundred dollars, exclusive of the dog tax, and shall appoint an assessor to make an assessment of persons and property therein; and shall also appoint a collector and treasurer. It shall be the duty of the assessor of the said town, within two weeks after his appointment, to make a true, just and impartial valuation and assessment of all the real estate and assessable personal property within said town, and also an assessment of all the white male citizens residing in said town above the age of twenty-one years, as well those owning real estate in the said town as those not owning real estate in said town, and also to ascertain the number of dogs in said town and the owners of such dogs, assess-

Limit of.

Assessor.

Collector and Treasurer.

Assessment.

Assessment of dogs.

ing each dog to the owner thereof at fifty cents. And the said assessor shall forthwith, after making such assessment, deliver to the commissioners for the time being a copy of such assessment, containing the names of all the persons assessed and the amount of their assessment, distinguishing the real and personal assessments of each. When the assessment is returned the commissioners shall give five days' public notice of that fact, and that they will sit together at a place and on a day to be by them designated, from one to four o'clock in the afternoon, to hear appeals from said assessment. They shall have power at such time to add to or lesson any assessment except that of dogs, which shall always be fifty cents to each owner and keeper of a dog or dogs for each and every dog so owned or kept. When the appeal day has passed, the commissioners shall without delay cause the assessment list to be transcribed and the copy to be delivered to the collector, who shall thereupon collect from each taxable the amount of his tax and pay over the whole amount, after deducting commissions and such delinquencies as shall be allowed by the commissioners, to the treasurer by the first day of September next after the receipt of his duplicates. The collector shall have the same powers for the collection of the said taxes as are conferred by law on the collectors of county taxes. The collector and treasurer shall each give bond to the commissioners in such penalty as the said commissioners may prescribe for the proper discharge of their respective duties.

Copy of list to be delivered to commissioners

Notice of hearing appeals.

Power of commissioners upon appeals.

Copy of assessment list to be delivered to Collector.

Collector to pay over to Treasurer.

When.

Powers of Collector.

Bond of Collector and Treasurer.

SECTION 6. *And be it further enacted,* That the commissioners, or a majority of them, shall have authority to use the money in the treasury of the town for the general improvement, benefit and ornament of the said town, as they, or a majority of them, may deem advisable; but no money shall be paid out by the treasurer except upon the written order of the commissioners or a majority of them.

Commissioners may use money for benefit of town.

When Treasurer may pay out money.

SECTION 7. *And be it further enacted,* That any ordinance for the paving or improving of the sidewalks shall apply only to those persons owning property upon them, who shall bear the expense of making the pavements or other improvements ordered. If such ordinance be not complied with within three months, the commissioners may procure the materials and cause the work to be done and collect the expense of the same by a sale of the personal or real estate of the party in default, ten days' notice, by advertisements posted in four of the most public places of the said town, being first given. The sale may be made by any one whom the said commissioners may appoint for that purpose, and if the proper notice of such sale has been given, shall transfer to and vest in the purchaser all the right

Ordinances for paving.

Owners to bear expense

Failure to comply.

Commissioners may cause paving to be done.

Cost of, how collected.

By whom sale may be made.

Effect of sale

and title of the person in default to and in the property sold. The proceeds of such sale shall be paid to the treasurer for the use of the town, but if there be any surplus, after meeting the claim for which the sale is made and the reasonable expenses of making the same, it shall be paid to the said party in default.

Proceeds to be paid to Treasurer.

Surplus to be paid to party in default.

If no Justice of Peace in town, the one nearest to be Alderman.

Chap. 309, Vol. 9, to apply to Alderman under this act.

Alderman.

Constable.

Chap. 309, Vol. 9, to apply to town constable under this act.

SECTION 8. *And be it further enacted,* That in the event that no justice of the peace shall reside within the limits of the said town, then the justice of the peace resident nearest said town shall be the town alderman, and all the provisions of the act of February 11, 1841, (Ninth Volume Delaware Laws, page 349,) which appertain to the alderman of the Town of Dover, shall apply to and are hereby extended and applied to the said alderman of the Town of Wyoming. Whenever there shall be a justice of the peace residing within the limits of said town the said justice shall be the town alderman. The constable residing in said Town of Wyoming, and in case no such officer shall reside in said town, then the constable resident nearest thereto shall be the town constable, and all provisions of the act aforesaid in reference to the town constable of Dover shall be applied and are hereby extended and applied to the said town constable of Wyoming.

Town limits.

SECTION 9. *And be it further enacted,* That the commissioners named in the first section of this act, in fixing and establishing the limits of the Town of Wyoming, shall start at a point in the public road leading from Camden to Hazlettville, at the southwest corner of the farm belonging to Charles P. Ramsdell and Josiah Besemer, and run from thence in a northerly direction by and with the western line of said farm and with a prong of William P. Lindale's mill-pond and the edge of said pond to the southern line of a farm belonging to James F. Allee; thence by and with the road dividing the said last mentioned farm from lands attached to William P. Lindale's mill to the public road leading to school house in School District No. 72; thence in a southerly direction to the stream, the outlet of William P. Lindale's mill-pond; thence following the several courses and meanderings of said stream to the eastern line of William Watson's land; thence along the said eastern line of said last mentioned land in a southerly direction to the public road leading from Wyoming to the road leading from Camden to Dover; thence in a westerly direction by and with the said road leading from Wyoming to the Camden and Dover road to the eastern line of lands of Mary A. Besemer; thence in a southerly direction by and with said line of said Mary A. Besemer's lands to a point in the public road leading from Camden to Wyoming near the African church; thence in a westerly direction along said

public road to the south-west corner of said Mary A. Besemer's lands; thence by and with a public road in a southerly direction to the public road leading from Camden to Hazlettville; thence by and with said public road to the place of beginning. The said commissioners may open any new streets within said limits, paying to the owners of any lands taken for that purpose a fair compensation, to be ascertained by the valuation of two disinterested persons, one of whom shall be chosen by the commissioners and the other by the land-owner. In case of disagreement between the persons chosen, they may call in a third person, and the finding of a majority of them shall be binding and conclusive. The said commissioners shall have no authority to close up any street, lane, or alley at present open in said town, but shall cause the same to be laid down on the plot to be returned to the Recorder's office at Dover under the provisions of the first section of this act.

New streets.

Damages to owners.

How ascertained.

If disagreement of persons chosen, may call in third person.

Finding of majority final.

Commissioners not to close up streets, &c.

SECTION 10. *And be it further enacted,* That in case of necessity the alderman may and he is hereby authorized to appoint a special constable, who shall be and he is hereby authorized to execute and discharge any duties required to be performed by the town constable, and if any person so appointed shall neglect or refuse to act he shall be subject to a penalty of five dollars, to be imposed by the alderman and collected as other fines.

Special Constable.

Duties.

Penalty for refusal to act

SECTION 11. *And be it further enacted,* That the commissioners shall appoint a town clerk, who shall keep a record of the proceedings of the commissioners, and the same shall be evidence.

Town Clerk.

Duties.

SECTION 12. *And be it further enacted,* That the commissioners shall receive such compensation as shall be allowed to them by a vote of the taxables at the stated meeting in April next, as hereinbefore provided.

Compensation of commissioners.

SECTION 13. *And be it further enacted,* That this act shall be deemed and taken to be a public act.

Public act.

Passed at Dover, March 10, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 478.

NAME OF THE VILLAGE OF FREDONIA CHANGED.

An Act to Change the Name of the Village of Fredonia.

Name changed to Woodside.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Village of Fredonia, in North Murderkill hundred, Kent county shall, from and after the passage of this act, be called and known by the name "Woodside," which shall be its proper designation.

Passed at Dover, March 17, 1869.

CHAPTER 479.

FELTON INCORPORATED.

CONCERNING CITIES AND TOWNS.

An Act to Incorporate the Town of Felton, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives [of the State of Delaware] in General Assembly met (two-thirds of each branch concurring),* That the limits and bounds of the Town of Felton shall be and remain as follows, viz: Commencing in the direction of Frederica at a point in the centre of the Berrytown and Frederica county road, one quarter of a mile distant from the centre of the main track of the Delaware Railroad and the Berrytown and Frederica county road, a line shall be started at right angles to the aforesaid county road running in a direction north from the centre of said road one quarter of a mile; thence in a direction west parallel to said county road one-half mile, and thence in a direction south and at right angles with said county road one-half mile, and thence in a direction east and parallel to said county road one-half mile, and thence in a direction north to the place of beginning. Town limits.

SECTION 2. The justice of the peace oldest in commission resident in said town shall be alderman of said town and *ex-officio* a town commissioner and president of the town commissioners. It shall be his duty to execute all laws enacted for the peace and good government of the town, and to carry into effect all the lawful orders and directions of the town committee made in pursuance of any law of this State or any ordinance that the said town committee may be empowered to make and establish. He shall have all the powers of a justice of the peace concurrent with said justice within the town, and shall have jurisdiction and cognizance of all breaches of the peace and other offences in said town so far as to arrest and hold to bail or fine and imprison offenders; and all fines, forfeitures and penalties which may be prescribed by any law of this State or by any ordinance of the town committee regularly passed and established for the government of the town, and of all neglects, omissions or defaults of any constable, collector, assessor, treasurer, secretary, or any Justice oldest in commission to be Alderman, &c. Duties. Powers. Jurisdiction.

other officer or person whose duty it may be to collect, receive, pay over or account for any money belonging to said town, or to execute or obey any law or ordinance thereof: *Provided* that he shall not impose any fine exceeding ten dollars, or have jurisdiction in civil matters exceeding one hundred dollars, exclusive of costs. It shall be his duty, at the request of any citizen, to convene the town committee for any purpose connected with their duty. His fees for any service under this section shall be the same as those of a justice of the peace for a like service. The fee upon every conviction of a riotous, turbulent or disorderly person under the provisions of this act shall be one dollar, and for any service or duty for which no fee may be provided by law the fee may be established by the ordinance of the town committee, but the alderman shall have no vote in establishing such fees, nor upon any ordinance or question touching his compensation or any duty performed by him.

Limit of fines imposed, and on jurisdiction in civil cases.

Convening town committee.

Fees.

SECTION 3. On the first Saturday in March next, and on the same day in every year thereafter, there shall be an election held at the Fountain hotel, in Felton, for four commissioners, an assessor and treasurer, who shall continue in office one year. These officers shall be resident freeholders in said town at the time of their election. Said election shall be opened at two o'clock and close at four o'clock, P. M. At such election every white male citizen residing in said town, who shall be the age of twenty-one years and shall have paid the town tax last assessed to him, shall have the right to vote. The vote shall be received by the alderman of the town, and the result of the balloting for said commissioners, assessor and treasurer shall be ascertained by himself and two citizens of said town selected by him to assist in holding said election, who shall be the judges of said election, and shall decide upon the legality of the votes offered. The alderman shall receive the ballots and deposit them in a box to be provided for that purpose, and the two citizens assisting shall each keep a list of the voters voting. When the election shall be closed the alderman or one of his assistants shall draw said tickets out of said box, open and read aloud the same and pass the same over to one of the others for his inspection, while the third election officer shall tally the votes. After the result shall have been ascertained, the election officers shall make out certificates and deliver one to each commissioner elected, also to the one receiving the highest number of votes for assessor and treasurer. If, at the election, the alderman whose duty it is to hold said election shall not be present for that purpose, the voters may proceed and elect some one of their number for that purpose in lieu of the alderman. A minute of each election, containing

Elections for Commissioners, Assessor and Treasurer, when and where held.

Official term.

Qualifications of officers.

Qualifications of voters.

Balloting.

Certificates of Election.

Of the failure of the Alderman to hold elections.

Minutes of the elections.

the names of the persons voted for and the persons chosen for the office, shall be entered in a book to be provided for that purpose and subscribed by the persons holding said election. Said book shall be preserved by the town committee, and shall be evidence.

Incorporation.

SECTION 4. The alderman and the commissioners hereinafter appointed, and their successors in office to be elected as heretofore provided for, shall be and are hereby created a body politic and corporate in law, and shall be able and capable to sue and be sued, plead and be impleaded in all courts of this State by the corporate name of the Town of Felton; may purchase or receive and shall take, hold and enjoy lands, tenements and hereditaments in fee simple, trust or otherwise; also goods, chattels, moneys, rights and credits, granted, belonging to or held by said town for the use of said town for any purpose whatever, and may also grant, demise, sell and dispose of the same as they deem proper, and may do all other things which a body politic and corporate may lawfully do to carry out and effect the object and purposes of this act. The alderman and commissioners for the time being shall have superintendence and oversight of all the roads and streets open within the limits of said town, and no overseer of said roads or streets shall be appointed by the Levy Court of Kent county, but the said Levy Court shall annually appropriate, for the repair of said roads and streets, a sum of money not less than one hundred dollars, and shall make an order for the payment thereof to the said commissioners, which sum so appropriated shall be expended for that purpose and no other. The said commissioners shall account to the Levy Court for the said money in the same manner as overseers of roads in said county. They shall appoint from their number a superintendent, who shall superintend the labor on said streets, and may allow him one dollar per day for actual service on said roads or streets, and for each half day's service fifty cents, but no compensation shall be allowed for any fraction less than a half day.

Powers.

Alderman and Commissioners to have charge of roads, &c.

Levy Court to appropriate annually a certain sum.

Commissioners to account therefor.

Commissioners to appoint one of their number a superintendent of streets, &c.

Who to have power to open streets

SECTION 5. The alderman and commissioners shall have power, upon the application of ten or more citizens of the town, by petition for the purpose, to locate, lay out and open any new street or streets, or reopen any old street or streets now closed, or which may hereafter be closed, which ten or more citizens may desire to be located, laid out and opened or reopened, allowing to the persons respectively, through or over whose ground such street may pass, such compensation therefor as they shall deem just and reasonable under all circumstances; which compensation, if any be allowed, shall be paid by the treasurer of the town out of the money of said town upon warrants drawn upon him by the commissioners aforesaid.

Allowance of damages.

Of the payment thereof

CONCERNING CITIES AND TOWNS.

Notice to open new streets.

SECTION 6. Whenever the alderman and commissioners shall have proceeded to locate and lay out any street, and shall have fixed the compensation therefor, it shall be their duty, immediately after the survey and location of said street, to notify, in writing, the owner or owners of the real estate through which or over which such street may run, of their determination to open the same, and to furnish a general description of the location thereof, and also the amount of the damages or compensation allowed to each, and if such owner be not resident in the said town, then to notify the holder of said real estate. If any owner be dissatisfied with the determination to lay out and open the said street, or with the amount of the compensation or damages allowed by the alderman and commissioners, he may, within ten days after receiving notice from the alderman and commissioners as aforesaid, appeal from the said determination or assessment, or both, by serving written notice to that effect on the said alderman and commissioners, or some one of them. In order to prosecute said appeal, such owner or owners shall, within ten days after the expiration of the ten days allowed for appeals, apply to any justice of the peace of South Murderkill hundred, Kent county, who shall, within three days thereafter and upon notice to said alderman and commissioners, or some one of them, select and write down on a list the names of twenty-one judicious and impartial freeholders residing in South Murderkill hundred, ten of whom shall be freeholders owning no real estate in said town, and eleven of whom shall be freeholders owning real estate in said town. Upon receiving said notice from the justice of the peace said alderman and commissioners shall immediately notify all persons owning real estate on the said street and residing in said town, who have notified them of their intention to appeal, of the time and place when and where the said names will be selected, and at the time and place mentioned in the notice of the justice of the peace, and said appellants and alderman and commissioners shall attend there. The appellants, their agent, or attorney shall first strike out [one] of said names, and the alderman and commissioners, their agent, or attorney shall strike out another, and so on alternately until there shall be but seven freeholders left upon the list, who shall constitute the freeholders to determine concerning the necessity of said street, and assess the damages of all the owners of real estate through or over whose grounds said street shall pass who shall have notified the alderman and commissioners of their intention to appeal. The award and assessment of said freeholders shall be final, and a copy thereof shall be communicated to all the parties, appellant and respondent. In case either side be not represented before the justice of the peace, or shall refuse to strike out as aforesaid, the justice of the

Right of appeal.

Mode of selecting freeholders to decide the appeal.

Number of freeholders necessary to make decision.

The award final.

Of the duties of Justice.

peace shall strike out for the parties so absent, neglecting or refusing. Any one of the parties may, within ten days after the appointment of said freeholders and upon five days notice to the other parties resident in said town, or, in case of non-residence, then notice to the holders of any real estate, call out the freeholders aforesaid, who shall thereupon proceed upon oath or affirmation to inquire of the necessity of such street, and if they deem such street to be necessary to assess the damages of the several owners. Their award shall be made within twenty days from the time of notifying them to meet. If any freeholder thus appointed or notified shall refuse to serve he shall forfeit the sum of twenty dollars, to be recovered in an action of debt before any justice of the peace of Kent county, in the name of the Town of Felton, and for the use of said town. If [in] any case the award of the freeholders shall be against the necessity of any such street, then no petition for any such street so condemned shall be entertained by the alderman and commissioners then acting for one year. The act of the majority of said freeholders shall be as good as the act of the whole in making any such award or assessment of damages.

When the freeholders may be called out.

Freeholders to proceed under oath.

Within what time the award must be made.

Freeholders' forfeiture for refusing to serve.

Effect of the award.

Acts of majority good.

SECTION 7. If on any such appeal the award shall be against the necessity of a street, or the freeholders shall increase the damages of any appellant, then the costs of the appeal shall be borne by the town. But if the freeholders shall affirm the necessity of the street, and shall not increase the damages of any appellant, then the costs shall be paid by the appellants equally. The fees of the freeholders shall be one dollar per day.

Costs of appeal.

Fees of Freeholders.

SECTION 8. The damages which may be assessed upon the occasion of opening any street shall be paid out of the town funds, or duly tendered, before the property of any person in whose favor the damages are assessed shall be appropriated for the opening of any such street, and in case any such owner or owners, in whose favor damages are assessed, shall be a minor, non-resident, or shall refuse to receive or be incapable for any cause of receiving the same, such damages may be deposited in the Farmers' Bank of the State of Delaware, at Dover, to the credit of such person or persons, and subject to his or their order, and such deposit shall operate as payment.

Payment of damages.

SECTION 9. The alderman and commissioners, or a majority of them, be and they are hereby authorized and required, upon the written petition of five or more freeholders of said town, to direct, in writing, the proprietor or proprietors of any house or land in Felton, before or in front of which they may deem proper that a pavement should be made, to curb and lay a pavement of brick or smooth stones of such length and width as the said

House or land proprietors may be directed to curb and pave.

commissioners may specify, and if such proprietor or proprietors shall neglect or refuse, for the space of three months after being directed as aforesaid, to lay such pavement with good and sufficient curb, it shall and may be lawful for the said alderman and commissioners, and they or a majority of them are authorized and required to cause such pavements and curbs to be made, and to recover the costs of making the same by the distress and sale of any goods and chattles, lands and tenements belonging to such proprietor or proprietors within the limits of said town. If any pavement already made shall, at any time, by the said alderman or commissioners, or a majority of them, be deemed an insufficient pavement, they, or a majority of them, shall have the power and [are] hereby required to direct, in writing, the proprietor or proprietors thereof to make a sufficient one, and upon neglect or refusal so to do for the space of three months, the said alderman and commissioners, or a majority of them, shall cause the same to be done and recover the cost of doing the same in like manner as above prescribed in case of new pavement. Notice to one co-proprietor shall be notice to all, and in case no proprietor shall reside in town, notice to the occupier shall be deemed a sufficient notice to the proprietor. The said alderman and commissioners, or a majority of them, may cause such sidewalks, or portions thereof as are unpaved, to be covered with gravel, sand or dirt, if they deem them not proper to be paved, and shall cause them to be put in good order for the convenience of the citizens of said town, and may cause flag-stones to be put down at the crossings of the streets wherever they may think necessary, and the cost of doing the same shall be defrayed out of the funds of the town. If any lot or lots on any of the said streets shall be held or owned by a widow or widows in right of dower, such expenses incurred as aforesaid for the lot or lots so held shall be paid by the owner or owners of the reversion in fee simple, and if such owner or owners be minors at the time of such expenses being incurred, then to be paid by the guardian or agent acting for such minor or minors out of any money or effects of such minor or minors, and a receipt therefor to such guardian or agent shall be a sufficient evidence of such payment, and be allowed in his or her guardian or agent's account; and if not paid by the guardian or agent as aforesaid, on the presentation of the bill, the same to remain on interest from day of presentation and be a lien against such lot and improvements until paid. All subsequent repairs named in this act to be kept up at the expense of such holder in right of dower.

In case of refusal or neglect, commissioners to cause such curbing and paving to be done.

Costs, how recovered.

Of insufficient pavements.

Notice.

Commissioners may cause sidewalks to be graveled.

Costs, how defrayed.

When reversioners shall pay costs.

SECTION 10. That the alderman and said commissioners shall have authority to make such regulations and ordinances for the

Town regulations and ordinances.

government of the town as they shall deem proper and necessary, and they are hereby authorized and required to provide sanitary measures for the health of the citizens, cause all obstructions and nuisances that may at any time be and exist within the limits of said town, whether in the streets, lanes, alleys, or gutters, on the sidewalks, or in any other place within the limits of the aforesaid [town], to be removed and abated. The said alderman and commissioners, or a majority of them, may proceed, either upon their own view or upon complaint of any other citizen, in writing, stating the character of said nuisance or obstruction, and where the same exists. If the said alderman and commissioners, or a majority of them, either of themselves or upon such information and upon view shall determine that an obstruction or nuisance exists and ought to be removed, they shall give notice in writing to the person causing such obstruction or nuisance, or who is responsible for its existence or continuance, to remove or abate the same, and if such person shall refuse or neglect, for the space of two days after such notice, to remove or abate the said obstruction or nuisance, he shall forfeit and pay the sum of ten dollars, with costs, to be recovered by the alderman and commissioners for the use of the town, in the same manner as debts of that amount are recoverable; and for every additional day the same shall remain unabated and unremoved he or she shall forfeit the sum of ten dollars, to be recovered with costs in the same manner.

Sanitary measures.

Nuisances.

SECTION 11. That it shall and may be lawful for the said alderman and commissioners to build and maintain a suitable place as a lock-up or jail for the use of said town, and the alderman of said [town,] or any justice of the peace acting under the provisions of this act, or carrying into execution any judgment or sentence pronounced under [its] authority or the authority of any ordinance or regulation adopted by virtue of the power herein conferred, may commit to the said lock-up or jail, for any time not exceeding five days, and for want of such lock-up or jail to the common jail of Kent county.

Lock-up or jail authorized.

SECTION 12. It shall be the duty of the alderman and commissioners of the town, and of the constable of Kent county residing in said town, and of the town bailiff, who shall be appointed by said alderman and commissioners when no constable resides in said town, to suppress all riotous and turbulent assemblages, and shall have the power and authority to suppress, extinguish and prevent all bonfires in any of the streets, lanes, alleys or squares of the said town, and to suppress and prevent the firing of guns or pistols, or the letting off of fire-works, or the making and throwing of fire-balls within the limits of the said town; and the

Breaches of the peace prohibited.

Commissioners may make ordinances for the prevention thereof.

said alderman and commissioners may enact and publish ordinances with reasonable penalties for preventing and punishing persons guilty of their violation. Any fine imposed by any such ordinance may be collected before said alderman, or any justice of the peace in said town during his absence, and in default of payment, said alderman or justice may commit for any time not exceeding five days.

Penalty on Constables neglecting to perform their duties.

SECTION 13. If any constable shall neglect or refuse to perform the duties above enjoined by this act, he shall be deemed guilty of a misdemeanor in office, and it shall be the duty of the alderman and commissioners to present him to [the] grand jury, and upon conviction, he shall be fined in the [a] sum not less than ten nor more than twenty dollars, and he shall also forfeit his office.

Ordinances in relation to obstructions on streets.

SECTION 14. The said alderman and commissioners shall have authority to make such regulations and ordinances relative to the traveling over and upon the said streets and to the use thereof, and the standing or placing of carts, carriages, or other vehicles or obstructions, in and upon any of said streets, lanes, alleys or sidewalks, as they shall deem proper to secure the free and uninterrupted enjoyment thereof, and if any person shall wilfully violate the regulations and ordinances of the alderman and commissioners in that behalf, every person so offending shall forfeit and pay to the alderman and commissioners, for the use of said town, a sum not exceeding five dollars with costs, at the suit of said alderman and commissioners, in the same manner as debts of that amount are by law recoverable.

Penalty for violating the same.

Town funds, by whom and how employed.

SECTION 15. The alderman and the commissioners shall have authority to use the money in the treasury of said town for the improvement, benefit and ornament thereof as they may deem advisable. In the general performance of their duties, [the] doings and determinations of a majority of the town committee, consisting of said alderman and commissioners, shall be as good as the acts, doings and determinations of the whole. In case of a vacancy among the commissioners, the survivors or others shall have the same power and authority as the whole. All vacancies, either from death, resignation or inability to perform the duties of the office, shall be filled by the person receiving the next highest number of votes at the last annual election. If none others are voted for only those declared elected, then it shall be the duty of the alderman to select and commission a suitable person for the office.

Majority of commissioners may act.

Vacancies in office.

When the town committee shall organize.

SECTION 16. The said alderman and commissioners, after being duly sworn or affirmed to perform well and truly the duties of their office by some justice of the peace, are required to meet

within ten days after the passage of this act, and every year thereafter on the second Saturday of March, and proceed to organize the board of the town committee by appointing a secretary, to be selected from the board by the alderman. It shall be the duty of the secretary to keep a record of the transactions of the board, and the alderman shall be required to keep the books, papers, and all records of the town, in his office, and any person or persons applying for permission to inspect these records shall not be denied the privilege. The town committee shall be required to meet on the second Saturday of each and every month, and at such other times as they shall deem proper.

Secretary to be appointed Duties.

SECTION 17. The assessor, immediately after his appointment by this act, and in each [and] every year after his election on the first Saturday of March, shall proceed to make a true, just and impartial valuation and assessment of all the real estate within said town, and also an assessment of all the white male citizens residing in said town above the age of twenty-one years, as well those owning as those not owning real estate within the limits of said town, and also the personal property of such citizen subject to county assessment, and the said assessor shall make such assessment and return the same to the alderman and commissioners within four weeks next after the appointment or election of said assessor. The alderman and commissioners shall assess the real estate and person, and taxable personal property of the assessor. The alderman and commissioners shall, within five days after receiving the said assessment list, cause a full and complete transcript of said assessment list to be hung up at the post office in said town, there to remain for the space of ten days thereafter for public information; and the said alderman and commissioners shall, on [the] Monday next after the expiration of the said ten days, hold a court of appeal, which shall continue open from one till four o'clock, P. M., of said day, when they shall hear and determine appeals from the said assessment. Notice of the hanging up of the list, and also, at the same time, notice of the time and place of hearing appeals, shall be given by notices posted in at least six public places of said town. The decision of the alderman and commissioners upon any appeal shall be final and conclusive. No commissioner shall sit upon his own appeal, but the same shall be heard and determined by the others. The assessor, in making the assessment, shall include therein all dogs owned or kept within the said town, and the owner or keeper of any dog or dogs included in said assessment, shall be liable to pay a yearly tax of fifty cents for each and every dog so owned or kept by him or her. After the valuation and assessment shall be examined and adjusted by said alderman

Duties of Assessor.

Duties of commissioners after return of the assessment by the Assessor

Court of appeal.

Decision of commissioners to be final.

Dogs to be included in the assessment.

Tax on dogs.

and commissioners, all taxes shall be levied, assessed and raised on the real estate, personal property, persons, and dogs thus valued and assessed, in just and equal proportions and rates.

Assessor to be sworn or affirmed.

The assessor, immediately after his election and before entering upon the duties of his office, shall be sworn or affirmed, by some justice of the peace, diligently and impartially to perform the duties of his office to the best of his ability, knowledge and judgment.

Commissioners to furnish Treasurer with list of taxables, &c.

SECTION 18. The alderman and commissioners, after having ascertained the sum necessary to be raised on the said town for the purpose of this act, which said sum shall in no year exceed one hundred dollars, and after having apportioned the same on the assessment and valuation aforesaid, shall, yearly, in the month of April, or as soon thereafter as convenient, furnish the treasurer of said town with a list containing the names of the taxables, as well the owners of real estate as those not owning real estate, and opposite the names of each [the] amount of the real estate, his poll and assessable personal property, and also the number of dogs owned by each person, and the tax on the whole valuation and assessment, and the rate per hundred dollars. The list shall be signed by the alderman and commissioners, or a majority of them. The treasurer, immediately after receiving the said list, shall proceed to collect the taxes mentioned in the said list, and in collecting the same shall have the same powers as are given by law to the collector of county rates and levies.

When to be furnished.

What list to show.

To be signed by commissioners.

Duties of Treasurer.

Treasurer to give bond.

The treasurer, before he enters upon the duties of his office, shall be sworn or affirmed to perform the duties of his office with fidelity and be required to give bond, with sufficient surety, in the penal sum of one thousand dollars, to the Town of Felton, conditioned for the faithful discharge of the trust reposed in him, and the payment over to his successors in office of all such sums of money as may remain in his hands upon the settlement of his accounts. The said treasurer shall pay all orders drawn on him by the said commissioners, or a majority of them, and shall settle his accounts with the said commissioners annually, in the month of February, and as often and at such times as they, or a majority of them, shall require. The said treasurer, secretary, and assessor shall each have a reasonable compensation, to be determined by the commissioners and alderman: *Provided* the compensation as such shall not exceed three per cent., and that of the collector, or of the treasurer acting as collector, shall not exceed ten per cent.

Shall settle with commissioners annually.

Commissioners may appoint a collector.

SECTION 19. The said alderman and commissioners shall have power, in any year in which they may think proper, to appoint a collector for said town, to collect the town tax levied by the said

commissioners. The said collector, before he enters upon the performance of his duties, shall give bond in the sum of one thousand dollars to the alderman and commissioners, conditioned for the discharge of his duties and the payment to the treasurer of all moneys collected by him, and for the settlement of his accounts with the treasurer in the month of February, and at such other times as the alderman and commissioners shall require. In case a collector be appointed, the list which the alderman and commissioners by Section 18 are required to deliver to the treasurer shall be delivered to the collector. The collector shall have the same powers in the collection of taxes as are conferred on the treasurer by said section, and shall receive reasonable compensation, to be determined in like manner.

Collector to give bond.

Powers of Collector.

SECTION 20. *And be it further enacted,* That Jacob W. Prettyman, Benjamin A. Reeves, David Niver and Benjamin C. Hopkins be and are hereby appointed commissioners of the Town of Felton, and David Needles be and is hereby appointed assessor of said town, and Peter L. Bonwill treasurer, to hold their offices until the day of the annual election the first Saturday of March next, or until their successors are duly elected and qualified for office. It shall be the duty of the alderman and the four commissioners above mentioned, with the assistance of a skillful surveyor, to be by them chosen, to survey and lay down on a plot the Town of Felton, establishing its limits, marking and describing its streets, alleys, lanes and sidewalks. No street, alley, lane or sidewalk shall be laid in said plot that has not been previously opened, accepted or used as public highways. When the said plot is made and subscribed to by the alderman and commissioners it shall be returned to the Recorder's office at Dover to be recorded, and the original and the record or certified copy thereof shall be evidence. The alderman and commissioners must all act; they and the surveyor, before entering on the duties under this section, shall take an oath or affirmation to discharge them with fidelity, and the aforesaid return shall show that this qualification was complied with. Any neglect or failure on the part of the alderman and the aforesaid commissioners to perform well and truly their duty under this section, shall not prevent any alderman and succeeding town commissioners from plotting the said Town of Felton, and having such plot recorded.

Town officers appointed.

They shall, with the assistance of a surveyor, survey and plot the town.

Plot, where returned.

Officers must all act and be sworn.

SECTION 21. All acts and parts of acts as are inconsistent [with] the provisions of this act, or which have been supplied by and embraced in this act, are hereby repealed.

Inconsistent acts repealed.

SECTION 22. This act shall be deemed and taken to be a public act, and shall be printed among the laws of this State.

Public act.

Passed at Dover, April 8, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 480.

HARRINGTON INCORPORATED.

An Act to Incorporate the Town of Harrington.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, two-thirds of each branch of the Legislature concurring*), That William T. Vangesel, Thomas H. Dorman, William Shaw, James H. Vickory and Martin W. Harrington are hereby appointed commissioners, whose duty it shall be, with the assistance of some skillful surveyor, to be by them chosen, to survey and lay down on a plot the Town of Harrington, in Kent county, establishing its limits, and marking and describing its streets, alleys, lanes and sidewalks, and shall, when all the service is performed, return the plot under their hands to the Recorder's office at Dover, to be recorded, and the original and the record or certified copy thereof shall be evidence. All the commissioners must act, but the decision of a majority shall govern. They and the surveyor, before entering on the duties under this section,

Commissioners appointed.

Their duties.

Plot of town

What to show.

Where returned.

Commissioners and Surveyor to be sworn.

shall take an oath or affirmation to discharge them with fidelity, and the aforesaid return shall show that this qualification was complied with.

SECTION 2. *And be it further enacted,* That the commissioners hereby appointed, and their successors in office, to be elected as hereinafter provided, shall be and they are hereby created a body politic and corporate in law and in fact, and the said commissioners and their successors shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts in this State by the corporate name of "The Commissioners of the Town of Harrington," and may have and use a common seal, with power to alter or change the same, to purchase, take, hold and enjoy lands, tenements, or hereditaments in fee-simple or otherwise, and also goods, chattels, rights and credits, and may alien, grant, demise and dispose of the same as they may deem proper, and may do all other things which a body politic and corporate may lawfully do to carry out and effect the object and purpose of this act.

Commissioners incorporated.

Name.

Powers.

SECTION 3. *And be it further enacted,* That as soon as conveniently after the said plot shall have been returned as aforesaid, the commissioners named in this act shall call a meeting for the purpose of electing an alderman, assessor, treasurer and collector; said election to be held in the same way and manner as is hereinafter prescribed for holding the annual election to elect town officers.

Alderman, Assessor, Treasurer and Collector to be elected.

SECTION 4. *And be it further enacted,* That the alderman, assessor, treasurer and collector, elected under the third section of this act, and the commissioners herein named, shall continue in office till the first Saturday in March, A. D. 1870, on which day in that year, and on the same day in every year thereafter, there shall be held an election at such time and place as shall be determined and fixed by the town commissioners, due notice whereof shall be given by the said commissioners at least five days before said subsequent elections, for an alderman, five commissioners, an assessor, treasurer and collector. The said alderman, assessor and treasurer and three of said commissioners shall be residents of and freeholders in said town; the two remaining commissioners shall be residents in said town. The said election shall be held by two persons chosen by the voters present, who shall receive the ballots, ascertain the result and certify the same in the town record. At such election every white male taxable of said town, above the age of twenty-one years, shall be entitled to vote. The two citizens aforesaid shall be the judges of said election, and shall decide on the legality of the votes offered.

Official term of Town Officers.

Town election.

Notice.

Qualifications of officers.

Who shall hold elections.

Voters' qualifications.

Judges of election.

CONCERNING CITIES AND TOWNS.

Stated meetings. When held. For what purposes held.

SECTION 5. *And be it further enacted,* That there shall be four stated meetings in every year of the said commissioners, viz.: on the third Saturday in March, June, September and December, at which meetings they may pass all such ordinances or rules for the good government of the said town, the improvement of the streets, the paving or other improving of the sidewalks, the planting and protection of ornamental trees, the repair and making of public pumps, and for all other matters relating to the said town, its police, improvements, ornaments, and general welfare, as by said commissioners may be deemed proper; provided, the same be not repugnant to the constitution or laws of this State. By such ordinances they may impose fines, penalties and forfeitures, and provide for their collection.

Powers and duties of Alderman.

SECTION 6. *And be it further enacted,* That the person elected as alderman aforesaid of said town shall have all the powers of a justice of the peace within the limits of said town so far as the jurisdiction and cognizance of all breaches of the peace and other offences within said town, to arrest and hold to bail or fine and imprison such offenders, and of all fines, forfeitures and penalties which may be prescribed by any law of the State or by ordinance of the town commissioners regularly passed and established for the government of said town, and of all neglects, omissions or defaults of the town bailiff, assessor, or treasurer, or any other person or officer whose duty it may be to collect, receive, pay over, or account for any money belonging to said town, or to execute or obey any law or ordinance thereof; *Provided,* that he shall not impose any fine exceeding ten dollars, nor have jurisdiction in any civil matter other than to carry out the provisions of this act or the rules and regulations adopted for the government of said town by the persons authorized to adopt the same under this act. The fees of said alderman shall be the same as are allowed justices of the peace for similar services under the laws of this State. It shall be the duty of the alderman to keep a book of record, or docket, to be called the "Alderman's Docket of the Town of Harrington," to be provided by the commissioners aforesaid, in which all his official acts shall be entered, and he shall, upon expiration of his term of office deliver over to his successor all the books, &c., pertaining to his office, within ten days after the election and qualification of his successor, and in default of so doing shall forfeit and pay, for the use of the town, the sum of twenty dollars, to be recovered before the succeeding alderman or any justice of the peace residing in said town.

Alderman's docket.

Tax.

SECTION 7. *And be it further enacted,* That the commissioners shall, at the first stated meeting in every year, determine the

amount of tax to be raised on said town for that year, not exceeding five hundred dollars, excluding the dog tax. It shall be the duty of the assessor of said town, within two weeks after the first stated meeting, to make a true, just and impartial valuation and assessment of all the real estate and assessable personal property within said town, and also an assessment of all the white male citizens residing in said town above the age of twenty-one years, as well those owning real estate, as those not owning such estate within its limits, and also to ascertain the number of dogs in said town, and the owners of such dogs, assessing each dog to the owner thereof at fifty cents, and the said assessor shall forthwith, after making such assessment, deliver to the commissioners for the time being a duplicate containing the names of all the persons assessed and the amount of their assessment, distinguishing the real, poll and personal assessments of each. When the assessment is returned, the commissioners shall give five days public notice of that fact, and that they will sit together at a certain day and place to be designated by them, from one to four o'clock in the afternoon, to hear appeals from said assessment, except that of dogs, which shall always be fifty cents to each owner or keeper of each dog. When the appeal day has passed, they shall without delay cause the assessment list to be transcribed, and the transcript to be delivered to the collector, who shall thereupon collect from each taxable his proportion of the tax laid, and pay over the whole amount, deducting commissions and delinquencies which shall be allowed by the commissioners, to the treasurer by the first day of September next after the receipt of this duplicate. The collector shall have the same power for the collection of the said taxes as are conferred by law on the collectors of county taxes. The collector, before entering on the duties of his office, shall give bond with sufficient surety in the penal sum of double the amount of money to be by him collected each year to the "Commissioners of the Town of Harrington," conditioned for the payment to the treasurer of all moneys collected and for the settlement of his accounts with the treasurer in the month of September for the year for which he is elected collector, and at such other times as the commissioners may require. The treasurer shall, in like manner, before entering upon the duties of his office, give bond with sufficient surety in the penal sum of five hundred dollars, or such other sums as the commissioners may require, to the "Commissioners of the Town of Harrington," conditioned for the faithful discharge of the trust reposed in him and the payment over to his successor in office all such sums of money as may remain in his hands upon the settlement of his accounts. The said assessor and treasurer shall each have a reasonable compensation, to be determined by the commissioners.

Assessment.

Tax on dogs.

Duties of commissioners on return of assessment.

Appeals.

Power of Collector.

Collector to give bond.

Condition thereof.

Treasurer to give bond.

Condition thereof.

CONCERNING CITIES AND TOWNS.

Money in Treasury, for what purposes to be used.

SECTION 8. *And be it further enacted,* That the commissioners, or a majority of them, shall have authority to employ the money of the treasury of the town for the general improvement and benefit and ornament of the said town as they may deem advisable and to carry out the purposes of this act, and all money paid out by the treasurer shall be paid upon the order of the commissioners or a majority of them.

House or land proprietors may be directed to curb and pave.

SECTION 9. *And be it further enacted,* That the commissioners, or a majority of them, be and they are authorized and required, upon the petition of three or more freeholders of said town, to direct, in writing, the proprietor or proprietors of any house or land in Harrington, before or in front of which they may deem proper that a pavement should be made, to curb and lay a pavement of brick or smooth stones of such length and width as the said commissioners may specify, and if such proprietor or proprietors shall neglect or refuse, for the space of three months after being so directed as aforesaid, to lay such pavement with good and sufficient curbs, it shall and may be lawful for the said commissioners, and they, or a majority of them, are authorized and required to cause such pavement and curbs to be made, and to recover the costs of making the same by distress and sale of any goods and chattels, lands and tenements belonging to such proprietor or proprietors within the limits of said town. If any pavement already made shall at any time by the said commissioners, or a majority of them, be deemed an insufficient pavement, they, or the majority of them, shall have power and are hereby required to direct, in writing, the proprietor or proprietors thereof to make a sufficient one, and upon neglect or refusal so to do for the space of three months, the said commissioners, or a majority of them, shall cause the same to be done and recover the cost of doing the same in like manner as above prescribed in case of new pavement. Notice to one co-proprietor shall be notice to all, and in case no proprietor shall reside in the town, notice to the occupier shall be deemed a sufficient notice to the proprietor. The said commissioners, or a majority of them, may cause such sidewalks, or portions thereof as are unpaved, to be covered with gravel, sand, or dirt, if they deem them not proper to be paved, and shall cause them to be put in good order for the convenience of the citizens of said town, and may cause flag-stones to be put down at the crossings of the streets wherever they may think necessary, and the cost of doing the same shall be defrayed out of the funds of the town. The sale of any personal or real estate made under the authority of this section may be made by any person whom the commissioners may depute, notice whereof shall be given ten days before the day of such sale in four public places in said town.

In case of refusal or neglect commissioners to cause such curbing and paving to be done.

Costs, how recovered.

Of insufficient pavements.

Notice.

Commissioners may cause sidewalks to be graveled.

Costs, how defrayed.

Who to make sale.

Notice.

CONCERNING CITIES AND TOWNS.

SECTION 10. *And be it further enacted,* That the commissioners for the time being, or a majority of them, shall have the superintendence and oversight of all roads and streets, lanes and alleys and gutters now opened, or hereafter to be opened, and shall have power and authority to cause the streets, lanes,. alleys, bridges and gutters in said town to be repaired, supported, regulated, removed and amended in any manner they may deem most proper for the convenience and interest of the citizens of said town; and no overseer of any of said roads or streets shall be appointed by the Levy Court of Kent county, but the said Levy Court shall annually appropriate, for the repair of said streets and roads, a sum of money not less than one hundred dollars, and shall make an order for the payment thereof to said commissioners, which sum, so appropriated, shall be expended for that purpose and no other. The said commissioners shall account to the Levy Court for the said money in the same manner as overseers of roads in said county. The commissioners for the time being, or a majority of them, shall have power, upon the application of five or more citizens of said town, by petition to them for that purpose, to locate, lay out and open any new street or streets which five or more citizens of said town may desire to be located and laid out and opened, allowing to the persons respectively, through or over whose grounds such street or streets may run, such compensation or damages therefor as they shall deem just and reasonable under all the circumstances, which compensation, if any be allowed, shall be paid by the treasurer of the Town of Harrington out of moneys of said town, on warrant drawn on him by the commissioners aforesaid. That the damages which may be assessed upon the occasion of opening any street shall be paid out of the town funds, or duly tendered, before the property of any person in whose favor the damages are assessed shall be appropriated for the opening of any such street; and in case any such owner or owners in whose favor damages are assessed shall be a minor, non-resident, or shall refuse to receive, or be incapable, for any cause, of receiving the same, such damages may be deposited in the Bank of Smyrna, at Milford, or any other banking institution which may at the time exist in said Town of Milford, to the credit of such person or persons, and subject to his or their order, and such deposit shall operate as payment.

Commissioners to have charge of roads, &c.

Levy Court to appropriate annually a certain sum for the benefit of roads, &c.

Commissioners to account therefor.

Commissioners to have power to open streets.

Allowance of damages.

Payment thereof.

Where damages shall be deposited for minors, &c.

SECTION 11. *And be it further enacted,* That the alderman, commissioners and assessor shall, before one of the justices of the peace of Kent county, be duly qualified by oath or affirmation to perform the duties of their offices respectively, to the best of their knowledge respectively, and without favor or partiality;

Town officers to be sworn.

and after being qualified, the said commissioners, at their first meeting after each election, shall choose a president and secretary from their number, who shall continue during their term of office; and if by death or otherwise the place of the president or secretary shall become vacant, the commissioners, or a majority of them, at their next meeting thereafter, are hereby authorized to fill said vacancy out of their number, as aforesaid. And if a vacancy should occur in the office of alderman, commissioners, assessor, or treasurer, during the said term of office, by death or otherwise, the said commissioners, or a majority of them for the time being, at their next meeting thereafter, are hereby authorized to fill such vacancy by appointing an alderman, commissioner, assessor, or treasurer, or either, as the case may be, to fill the unexpired term of said office or offices and all such appointments made by said commissioners authorized as aforesaid.* All the commissioners shall act, but the decision of a majority shall govern. The officer so appointed, after being qualified, or giving bond as required by this act, shall have all power in like manner and be subject to all the penalties the same as though duly elected and regularly appointed to said office or offices. It shall be the duty of the president chosen as aforesaid to preside at all meetings of said commissioners, and in case of his or the secretary's absence, an officer *pro tem.* shall be appointed to act in his or their place. It shall be the duty of the secretary to record all the proceedings of the said commissioners and keep a correct journal of the same in a book or books to be provided for that purpose, and also the papers relative to said town, all of which are to be carefully kept and delivered to his successor in office. The said journal shall be evidence.

Commissioners to choose a President and Secretary.

Vacancies.

President to preside.

Duties of Secretary.

Sanitary measures.

SECTION 12. *And be it further enacted,* That the commissioners are hereby authorized and required to provide sanitary measures for the health of the citizens, cause all obstructions and nuisances that may at any time be and exist within the limits of said town, whether in the streets, lanes, alleys, or gutters, on the sidewalks, or in any other place within the limits aforesaid, to be removed and abated. The said commissioners, or a majority of them, may proceed either upon their own view or upon complaint of any other citizen, in writing, stating the character of said nuisance or obstruction, and where the same exists. If the said commissioners, or a majority of them, either of themselves or upon such information and upon view, shall determine that an obstruction or nuisance exists and ought to be removed, they shall give notice in writing to the person causing such obstruction or nuisance, or who is responsible for its existence or continuance, to remove or abate the same, and if such person

Nuisances.

* So enrolled.

shall refuse or neglect, for the space of two days after such notice, to remove or abate the said obstruction or nuisance, he shall forfeit and pay the sum of ten dollars, with costs, to be recovered by the commissioners for the use of the town in the same manner as debts of that amount are recoverable; and for every additional day the same shall remain unabated and unremoved he or she shall forfeit the further sum of ten dollars to be recovered with costs in the same manner.

Lock-up or jail authorized.

SECTION 13. *And be it further enacted,* That it shall and may be lawful for the said commissioners to build and maintain a suitable place as a lock-up or jail for the use of said town, and the alderman of said town, or any justice of the peace acting under the provisions of this act, or carrying into execution any judgment or sentence pronounced under its authority, or the authority of any ordinance or regulation adopted by virtue of the power herein conferred, may commit to the said lock-up or jail, for any time not exceeding five days, persons disobeying the said judgment or sentence pronounced as aforesaid, and for want of such lock-up or jail, to the common jail of Kent county.

Town bailiff.

SECTION 14. *And be it further enacted,* That the said commissioners are hereby authorized, if they deem it necessary, to appoint some discreet and judicious citizen, a resident of Harrington, town bailiff, and the said bailiff shall have all the powers and authority within the limits of said town of a constable of the State of Delaware in and for Kent county, as to the cognizance of all breaches of the peace and other offences within said town, and shall hold his office subject to the option of the commissioners, and his fees and emoluments shall be the same as those of constable for like services: *Provided,* That he shall not serve any civil process except to carry out the provisions of this act. If the commissioners do not deem it proper to appoint a bailiff as aforesaid, the constable the oldest in office residing in the town of Harrington shall act as town bailiff, and shall be clothed with all the power necessary to perform the duties of his office. It shall be the duty of the said alderman, commissioners and bailiff, or of any justice of the peace and constable of Kent county residing in said town, to suppress all riotous, turbulent, disorderly, or noisy conduct of any person or persons, or disorderly and noisy assemblages or gatherings of persons in the streets, lanes, or alleys of the said town, or in any house situated therein, after night, or on the Sabbath day, or at any other time or season whatever, and for this purpose it shall be the duty of the said bailiff, or any constable, upon the requisition of the alderman, or of any one of said commissioners, and without further warrant, forthwith to seize and arrest any such person or

Fees.

Not to serve civil process.

Constable oldest in office may act as bailiff.

Breaches of the peace to be suppressed.

Proceedings herein.

persons so offending, and to carry him or them before the said alderman, or any justice of the peace resident in said town; and upon conviction before the said alderman, or justice of the peace, as aforesaid, (whose duty it shall be to hear and determine the case,) the said alderman or justice of the peace shall sentence any such person or persons so convicted to pay a fine not exceeding ten dollars, and may commit the party to the lock-up, or jail, or the common jail of Kent county, for any period not more than five days, or until said fine and the costs be paid. It shall be the duty of the said alderman, or justice of the peace, upon complaint made before him of any such riotous, turbulent conduct as aforesaid, or noisy assemblages, to issue his warrant to the said bailiff, or constable, commanding him to bring any such person or persons, so offending as aforesaid, before him for trial. That the said lock-up, or jail, shall be in the charge of the town bailiff, whose duty it shall be to provide for the maintenance of such persons as may from time to time be confined therein, the expenses to be defrayed by the treasurer of the town upon a warrant drawn upon him by the commissioners for that purpose.

Bonfires, &c. not to be allowed.

SECTION 15. *And be it further enacted,* That it shall be the duty of the said alderman, commissioners, bailiff, or justice of the peace to suppress, extinguish, and prevent all bonfires in any of the streets, lanes, or alleys of the said town, and suppress or prevent the firing of guns, pistols, or the letting off of fire-works, or the making or throwing fire-balls within the limits of said town; and the said commissioners may enact and publish ordinances, with reasonable penalties, for preventing the same and punishing persons guilty of their violation. Any fine imposed by any such ordinance may be collected before the said alderman or justice of the peace in the town, and, in default of payment, the said alderman or justice of the peace may commit for any time not more than five days. All fines and forfeitures realized under the provisions of this act, by the alderman, or justice of the peace as aforesaid, shall be paid over to the treasurer for the use of the town. If any constable shall neglect or refuse to perform the duties above enjoined on him by this act, he shall be deemed guilty of a misdemeanor in office, and it shall be the duty of the commissioners to present him to the grand jury, and upon conviction thereof he shall, in addition to the punishment imposed by the court, forfeit his office.

Ordinances to prevent the same.

Fines and forfeitures to be delivered to Treasurer.

Penalty for neglect of duty on part of Constable.

Town limits.

SECTION 16. *And be it further enacted,* That the commissioners named in the first section of this act, in forming and establishing the limits of the Town of Harrington, shall start at a point in the centre of the main track of the Delaware Railroad, exactly opposite the south-west corner of the tank-house, and shall not

extend the limits of said Town of Harrington from said point in a northerly direction up the said main track of the said Delaware Railroad over eight hundred and fifty feet, and in a southerly direction down said track of the said railroad over eight hundred and fifty feet, and in an easterly direction perpendicular to the said track of the said railroad over eight hundred and fifty feet, and in a westerly direction perpendicular to the said track of the said railroad over eight hundred and fifty feet, thereby forming a square; nor shall they have power to close any street, lane, or alley now open in said town upon which any buildings or improvements have been erected, but shall cause the same to be laid down on the plot required to be returned to the Recorder's office, at Dover, by the first section of this act.

Commissioners not empowered to close streets, &c. on which buildings have been erected.

SECTION 17. *And be it further enacted,* That the commissioners named in this act, or their successors, shall have no power to tax any unimproved property within the limits of said town.

Unimproved property not to be taxed.

SECTION 18. That the power to repeal this act, or any part thereof, or any other law which may hereafter be enacted respecting the said Town of Harrington, is hereby reserved to the Legislature.

Power to repeal reserved.

SECTION 19. *And be it further enacted,* That this act shall be deemed and taken to be a public act.

Public act.

Passed at Dover, March 23, 1869.

CHAPTER 481.

TOWN OF MILFORD.

An Act to amend Chapter 176, *Volume* 13, *Part II of the Laws of the State of Delaware, entitled, "An Act to incorporate the Town of Milford."*

Current Vol. 169.

SECTION 1. *Be it enacted by the Senate and House of Representatives [of the State of Delaware] in General Assembly met,* That Chapter 176, Volume 13, Part II of the Laws of the State of Delaware, entitled, "An Act to incorporate the town of Milford," be and the same is hereby amended by striking out the words "the said alderman and," in line 12 of Section 1 of said act, and by inserting the words "and the alderman," between the words "commissioners" and "shall" in line 14 of said section.

Sec. 1, Chap. 176 amended

Alderman not required to be a freeholder.

Passed at Dover, March 19, 1869.

CONCERNING CITIES AND TOWNS.

CHAPTER 482.

TOWN OF SEAFORD.

12 Volume, 613.
SEC. 1. Sec. 3 of Chap. 541 amended.
How.
SEC 2. Sec. 5 of said Chap. amended.
How.
3. Sec 15 amended.

12 Volume, 13. *An Act to amend Chapter* 541. *Volume* 12 *of the Laws of the State of Delaware.*

Sec. 3, Chap. 541, amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section three, in line two, be and the same is hereby amended by striking out the word "April" and inserting in lieu thereof the word "March," and by inserting in the fifth line of said third section, after the word "Hall" and before the word "from," the following: "or any other convenient place to be selected by the town commissioners."

How.

Sec. 5 of said Chap. amended.

SECTION 2. *Be it further enacted,* That Section five, in line three, be and the same is hereby amended by striking out the word "exceeding" and inserting in lieu thereof the words "less than," and also by inserting after* the word "dollars," in line four of said fifth section, the following: "no more than five hundred."

How.

Sec. 15 amended.

SECTION 3. *Be it further enacted,* That Section fifteen of said act be and the same is hereby amended by striking out the word "no," in the second line of said section, and also all after the word "town," in the third line of said section, and add at the end of said section the words: "All white unmarried male citizens over the age of twenty-one years shall pay a tax of fifty cents per capita, to be assessed by the assessor of said town at the time provided in Section five of the act to which this is an amendment.

Passed at Dover, April 7, 1869.

*So in enrolled bill.

CONCERNING CITIES AND TOWNS.

CHAPTER 483.

NAME OF CENTREVILLE CHANGED.

An Act to change the name of the Village of Centreville, in Baltimore Hundred, Sussex County, from Centreville to that of Roxana.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the name of the Village of Centreville, in Baltimore hundred, in Sussex county, be and the same is hereby changed from Centreville to that of Roxana. Name changed.

Passed at Dover, April 2, 1869.

CHAPTER 484.

MILTON ACADEMY.

An Act to Incorporate Milton Academy and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,)* That all the school districts or parts of districts, being in whole or in part in the town of Milton, Numbers 8, 12, 93, 160, or which now receive the benefits of the schools kept in said town, be and they are hereby declared incorporated into one common school district, to be governed and managed by seven trustees to be annually elected by the school voters of said districts, to serve for the term of one year and until successors shall be duly elected; they Certain School Districts incorporated. Trustees.

Their powers and duties.

shall have full power and authority to levy and raise by taxation, in the same manner as such taxes are assessed, levied and collected under the laws concerning free schools in this State, such sums of money as they shall deem necessary for the erection of suitable buildings for the accommodation of all the scholars of a proper age residing within said districts, and for the support of the school or schools to be taught therein; also, to employ all the teachers necessary to carry into effect the objects of this corporation. And it is hereby declared to be the duty of said trustees, and the intention of this act, that they shall *make ample provision for the tuition of scholars from the primary branches of an education up to and including a full academic course;* and generally to do all other acts and things incident to such corporation: *Provided,* That the amount to be raised by taxation in any one year for the erection of buildings, or the support or maintenance of the schools, shall be determined by the voters at the annual meeting, and that no greater sum than fifteen hundred dollars shall be raised by the regular tax in any year for the support of the schools of said district, or the erection of buildings.

Proviso.

Taxation limited.

Property of consolidated districts.

SECTION 2. *And be it further enacted as aforesaid,* That all the property, both real and personal, or mixed, now held by the five united or consolidated districts, under this act shall be deemed, taken and held to be the common property of all said districts as united or consolidated by virtue of this act. And in all the future distributions of the school funds of this State, among the several school districts thereof, the Trustee of said fund shall treat this consolidated district as five districts, and make the distribution accordingly; *Provided,* That in the distribution or disposal that may be made of the property held by the districts embraced in this act, that all excess over the amount realized by the district possessing the least valuable property shall revert to the district or districts respectively realizing a larger amount, and shall be used by them towards the payment of the first tax that may be levied for the purpose of carrying out the provisions of this act.

Proviso.

Of the admission of scholars not resident in the district.

The trustees to be elected pursuant to Section 1 of this act may, in their discretion, admit into said school or schools to be conducted under this act, persons residing out of the limits of this corporation, or persons over the age of twenty-one years, on such times [terms] as they shall deem equitable, and the proceeds of the tuition of scholars so admitted shall be paid over to the treasurer of said institution as a part of the common fund thereof.

Money, how raised, if taxation be deemed imprudent.

SECTION 3. *And be it further enacted as aforesaid,* That if the trustees herein mentioned shall deem it imprudent to raise by taxation the whole sum necessary to carry into effect the objects

of this corporation at one time, they may, in their discretion, levy and raise by taxation such portion thereof as they may deem proper, and borrow, on bond and mortgage on the property of said school district, or consolidated school districts, or otherwise, the balance of the sum necessary to carry into effect the objects and designs of this act, and to liquidate the same by annual installments, or otherwise, as may be agreed upon by said trustees and the party or parties making such loan.

Qualifications of trustees.

SECTION 4. *And be it further enacted as aforesaid*, That the trustees to be elected as aforesaid shall be property holders within the limits of said corporation, and shall have resided therein at least one year before their election as such trustees. They shall have full power and authority to erect the necessary building or buildings on the lot or lots now owned by said district or districts; or, if deemed best, to sell any one or all the lots now owned by said district or districts, and to purchase another location more suitable for the purposes contemplated by this act: *Provided however*, That before any such sale of the present property of said district or districts shall be made as aforesaid, the said trustees shall call a meeting of the voters of said district or districts, and lay before them the new location proposed for the erection of the school buildings aforesaid, and a vote shall be taken for and against such change; and if a majority of the voters present at such election shall vote in favor of making the change proposed as aforesaid, then said trustees are hereby authorized and empowered to sell and dispose of all the present property of said district or districts, or such part thereof as shall be agreed upon by the voters of such district or districts, and execute a deed or deeds for the same, under the hands and seals of said trustees, or a majority of them, which deed or deeds so as aforesaid executed shall convey and transfer to the purchaser or purchasers all the right and title of said district or districts of, in and to the property so as aforesaid conveyed; and said trustees shall take from the person or persons of whom said new property shall have been purchased a deed in such manner as shall secure a good and valid title to said district or districts in such lands and premises so as aforesaid purchased forever.

Present property of said districts may be sold.

How.

Title of purchaser.

Corporate name.

SECTION 5. *And be it further enacted as aforesaid*, That when the necessary structures and buildings shall have been erected and completed, the same shall be deemed and by force of this act shall become a corporation by the name, style and title of the "Milton Academy," and may have and use a common seal, and the same from time to time alter and renew, as shall be deemed proper by the trustees thereof. They shall appoint one of their board treasurer, who shall give bond in twice the amount esti-

Treasurer.

Bills against institution, how audited and paid.

mated to come into his hands as treasurer, as aforesaid. All bills against said institution shall be audited by said trustees, or a majority of them, and paid by drafts on the treasurer, and the drafts so drawn and paid by said treasurer shall be vouchers from which the account of said treasurer shall annually be settled.

Supplemental tax.

SECTION 6. *And be it further enacted as aforesaid,* That the trustees annually to be elected shall have full power and authority to levy and collect a supplement tax, outside and beyond the regular tax to be annually assessed, which shall be laid upon such persons as are receiving the greatest amount of benefit from said schools, in such proportions as said trustees shall deem equitable and just in the premises, which tax shall be collected the same as the regular taxes are collected, and subject to all the laws for the collection of said regular taxes. The said trustees shall receive no compensation for their services, except such as may be voted them at the annual election for trustees. Said trustees shall, annually, lay before the voters of said district, at the annual election for trustees, a full account of their doings in the premises since their election, embracing the number of scholars taught, the department in which they have been taught, the number of teachers employed, and the sum paid to them respectively, with any other information in relation to the conducting of said schools that they may deem of interest to the voters of said district.

Trustees to receive no compensation.

Their annual report.

Restriction on supplemental taxation.

SECTION 7. *And be it further enacted by the authority aforesaid,* That no supplement tax shall be assessed upon the inhabitants of said district under the provisions of Section 6 of this act, in any year, unless a tax equivalent to three hundred dollars, clear of delinquents and commissions, shall have been levied and raised for each of the districts composing the consolidated district, to wit: the sum of fifteen hundred dollars as the regular tax of said district. The election for trustees shall be held under this act at the same time as the school elections of this State are held for school committees. The trustees to be elected shall make, or cause to be made, the necessary assessments on the persons and property of said district, and [hold] a court to hear any and all appeals therefrom, the same as is provided by law in regard to other school districts of this State.

Election for Trustees. When held.

Assessments

Succession.

SECTION 8. *And be it further enacted as aforesaid,* That this act shall be deemed an incorporation for public purposes and improvement, and shall have succession for the period of twenty years, reserving, nevertheless, to the Legislature the right to alter, amend or repeal the same for abuse or misuse of its corporate franchises.

Revocation.

IN RELATION TO BANKS.

SECTION 9. *And be it further enacted,* That the provisions of this act shall only apply to and include such districts of the town of Milton as shall, at a meeting to be called for that purpose, accept the same by a majority of the school voters at such meeting, of which due notice shall be given by written advertisement, posted in five of the most public places in the district. Such notice shall be given by the present school committees of the respective districts, or the clerks thereof, stating the day, hour and place of meeting, and the purpose for which it is called; all votes shall be given by ballot at said election, and it shall be the duty of the officers appointed to conduct such election to certify, under their hands and seals, the acceptance or non-acceptance of this act to the Clerk of the Peace of Sussex county, who shall file the same in his office. In voting, those in favor shall vote "aye," and those opposed "no."

Act to be accepted by different districts.

Passed at Dover, April 7, 1869.

CHAPTER 485.

PEACH GROWERS' BANK OF DELAWARE.

IN RELATION TO BANKS.

An Act to Incorporate a Bank in Middletown, under the name of "The Peach Growers' Bank of Delaware, at Middletown."

Commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring,)* That Serick F. Shallcross, Benjamin T. Biggs, Martin E. Walker, John A. Reynolds, William Knight, Richard C. Johnson, John P. Cochran, Edward C. Fenimore, Robert A. Cochran and William J. Griffith, be and they are hereby appointed commissioners to do and perform the things hereinafter mentioned, that is to say: they, or any five of them, shall, on or before the first Monday in September next, procure a sufficient number of suitable books, one of which shall be opened in Middletown, and the others, if it shall be deemed advisable by the said commissioners, at such other place or places as they shall think proper, in each of which books they shall enter as follows: "We, whose names are hereunto subscribed, do promise to pay to 'The Peach Growers' Bank of Delaware, at Middletown,' the sum of fifty dollars for each and every share of stock set opposite to our respective names, in such manner, sums, and at such times as shall be directed by the President and Directors of said Bank," and shall thereupon give notice in two newspapers printed in New Castle county, and in such other papers as they may deem proper, at least twenty days, of the time and place or places when and where the said books will be opened to receive subscriptions for the capital stock of the said bank, at which time and place or places two or more of the said commissioners shall attend and permit all persons of lawful age, who shall offer to subscribe, in the manner following, that is to say: on the first day on which the said books are opened no person shall subscribe for more than twenty shares, either in his own name or as attorney for another, and on the second day on which the said books shall be opened the same restriction shall apply, and if at the expiration of the second day the whole number of one thousand shares shall not have

When and where books to be opened.

Form of subscription.

Notice of opening books.

Limitation of subscription.

IN RELATION TO BANKS.

been subscribed, then on the third day, or any subsequent day on which the said books shall be opened, it shall be lawful for any person in his own name, or as attorney for another, to subscribe for any number of shares of the said stock until the whole number of one thousand shares shall be subscribed. The commissioners shall keep the books open at least three days and at least six hours in each day unless the whole number of one thousand shares shall have been before that time subscribed, upon ascertaining which they may close the books. If it should happen that more than one thousand shares shall be subscribed, then the commissioners, or a majority of them, are hereby authorized and directed to deduct from the highest subscription or subscriptions until the shares be reduced to the proper number.

How long books to be kept open.

Deductions, if excess of subscriptions.

SECTION 2. *And be it further enacted,* That the said commissioners, in receiving subscriptions to the said capital stock, shall not suffer or permit more than two-fifths of the said capital stock to be subscribed for by persons not residing in this State, either personally or by attorney, and in case it should so happen that more than two-fifths of said stock shall have been subscribed for by non-residents as aforesaid, then the said commissioners shall deduct from said subscriptions last subscribed by such non-residents until the aggregate amount so subscribed for by them shall be reduced to two-fifths. And if, at any time after the bank hereby established shall have commenced business, and during the continuance of the said corporation, it should so happen that by subscription or sale a proportion of said stock greater than a majority shall be held or owned by persons not residing in this State, either in their own names or in the name of any other person as attorney, then the share or shares constituting such majority or overplus, and last subscribed or sold and transferred on the books of the said corporation, shall be forfeited by the directors for the benefit of the said corporation, and in case of the removal of any stockholder from the State so that he ceases to be a citizen, if the amount of stock held or owned by him shall increase the amount of stock held or owned out of the State to a proportion greater than a majority, it shall be incumbent on such stockholder to sell and transfer his said stock or so much thereof as will reduce the amount so held or owned out of the State to less than a majority to some person or persons resident within this State, within three months from the time of such removal, or the same shall be forfeited by the said directors for the benefit of the corporation.

How much may be subscribed by non-residents.

Deductions, if excess.

If non-residents own majority of shares, forfeiture of shares.

Removal of stockholder from State if his stock makes excess held by non-residents, to sell the whole or part thereof

If not sold within three months to be forfeited.

SECTION 3. *And be it further enacted,* That the capital stock of the said company shall be fifty thousand dollars divided into one thousand shares of fifty dollars each.

Capital stock $50,000.

IN RELATION TO BANKS.

Five dollars per share to be paid at subscription

SECTION 4. *And be it further enacted,* That each subscriber to the stock of said company shall pay to the commissioners aforesaid, at the time of subscribing for the same, the sum of five dollars on each share subscribed. It shall be lawful for the directors of said company, appointed in the manner hereinafter directed, to call in and demand of the stockholders respectively all such sums of money as are by them subscribed, by installments not exceeding ten dollars per share, upon giving thirty days previous notice to the stockholders in two newspapers printed in New Castle county, and in such other newspapers as the said directors shall deem proper, and in case of failure in the payment of all or any part of the said installments at the time or times so required, every share on which such failure shall have occurred, and the interest or dividends on all moneys previously paid, may be forfeited by the said directors for the benefit of the corporation, or in case they should not elect to forfeit said share or shares, it shall and may be lawful for the said corporation to sue, either at law, by action of debt, or assumpsit, or in equity, for the recovery of any sum or sums of money due or to become due as aforesaid from any subscriber, and in all suits either at law or in equity in the courts of this State, by or against the said company, this shall be deemed and taken to be [a] public act and need not be set forth in the pleadings or given in evidence.

Residue in installments not exceeding ten dollars per share.

Notice of calls.

Delinquent subscribers may be sued or shares forfeited.

Public act.

When whole amount subscribed company incorporated.

SECTION 5. *And be it further enacted,* That as soon as the whole amount of one thousand shares shall have been subscribed, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of "The Peach Growers' Bank of Delaware, at Middletown," and by that name shall have continuance and succession for the term of twenty years from the date of this act, and shall be able to sue and be sued, plead and be impleaded in all courts of law and equity, to purchase, take, receive, have, hold and enjoy to them and their successors, lands, tenements, goods, chattels and effects of whatsoever kind, nature or quality, and the same to sell, grant, demise, alien or dispose of, and also to have a common seal, and the same to break, alter, or renew at their pleasure.

Name.

Term.

Corporate powers

When $30,000 paid in may commence business.

SECTION 6. *And be it further enacted,* That the said bank shall have power to commence business as soon as the sum of thirty thousand dollars, current lawful money of the United States, shall have been actually paid in and deposited in its vaults, and not before; and it shall be the duty of the directors to make a statement, under oath or affirmation, of the description and amount of such deposits, and transmit the same to the Governor of this State previous to the bank going into operation.

Statement under oath.

IN RELATION TO BANKS.

SECTION 7. *And be it further enacted,* That for the proper management of the business and affairs of the said corporation there shall be nine directors, who shall be elected by the stockholders in the manner and at the times hereinafter directed, and who shall choose a president from among their number. They shall be stockholders at the time of their election, and also during the term of service, and a majority of them shall be citizens of this State, residing in New Castle county.

Directors.

President

Qualifications.

SECTION 8. *And be it further enacted,* That the commissioners aforesaid, as soon as conveniently may be after the capital stock has been subscribed as aforesaid, shall give ten days' notice, in two newspapers printed in New Castle county, and in such other newspapers as they may deem advisable, of the time and place, in Middletown, at which the subscribers shall meet in order to organize the said company; and the said commissioners, or any two of them, may hold the election, at which time and place the said subscribers shall choose, by a majority of the votes present, to be given in person or by proxy, nine directors; and the said directors shall, at their first meeting after the election, choose one of their number to be president, and shall manage and conduct the business and affairs of the company until the first Thursday in May, in the year one thousand eight hundred and seventy; and there shall be another meeting of the stockholders on the said first Thursday in May, in the year one thousand eight hundred and seventy, and on the same day in every year thereafter, in Middletown, of which twenty days' notice shall be given as aforesaid, at which meeting and meetings the stockholders shall choose, by a majority of votes present, given in person or by proxy, nine directors, who shall continue in office for one year and until others be chosen, and in case of a vacancy or vacancies in the Board of Directors by death or resignation, or otherwise, the remaining directors shall have power to fill such vacancy or vacancies by election from among the stockholders of the said bank, and the said directors shall, at the first meeting after the election, choose a president from among their number. Special meetings of the stockholders, of which notice shall be given as aforesaid, shall be called by the directors upon the request, in writing, of stockholders owning five hundred shares of stock, or whenever the directors shall deem it necessary, and on all occasions of voting each stockholder shall be entitled to one vote for each share held by him, which has been so held by him three calender months before the day of voting. At every election of directors, two stockholders, not being directors, shall be appointed judges of the said election by the stockholders present, who shall decide upon the qualification of voters, and declare who has

Notice of election.

Directors.

President.

Term of office

Annual meeting of Stockholders

Notice.

Election of Directors.

Term.

Vacancies, how filled.

President.

Special meetings.

Notice.

How called.

Regulations as to voting.

Judges of election.

Duties.

CONCERNING CITIES AND TOWNS.

CHAPTER 482.

TOWN OF SEAFORD.

12 Volume, 613.
SEC. 1. Sec. 3 of Chap. 541 amended. How.
SEC 2. Sec. 5 of said Chap. amended. How.
3. Sec 15 amended.

12 Volume, 13. *An Act to amend Chapter* 541, *Volume* 12 *of the Laws of the State of Delaware.*

Sec. 3, Chap. 541, amended. How.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section three, in line two, be and the same is hereby amended by striking out the word "April" and inserting in lieu thereof the word "March," and by inserting in the fifth line of said third section, after the word "Hall" and before the word "from," the following: "or any other convenient place to be selected by the town commissioners."

Sec. 5 of said Chap. amended. How.

SECTION 2. *Be it further enacted,* That Section five, in line three, be and the same is hereby amended by striking out the word "exceeding" and inserting in lieu thereof the words "less than," and also by inserting after* the word "dollars," in line four of said fifth section, the following: "no more than five hundred."

Sec. 15 amended.

SECTION 3. *Be it further enacted,* That Section fifteen of said act be and the same is hereby amended by striking out the word "no," in the second line of said section, and also all after the word "town," in the third line of said section, and add at the end of said section the words: "All white unmarried male citizens over the age of twenty-one years shall pay a tax of fifty cents per capita, to be assessed by the assessor of said town at the time provided in Section five of the act to which this is an amendment.

Passed at Dover, April 7, 1869.

*So in enrolled bill.

CONCERNING CITIES AND TOWNS.

CHAPTER 483.

NAME OF CENTREVILLE CHANGED.

An Act to change the name of the Village of Centreville, in Baltimore Hundred, Sussex County, from Centreville to that of Roxana.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the name of the Village of Centreville, in Baltimore hundred, in Sussex county, be and the same is hereby changed from Centreville to that of Roxana. Name changed.

Passed at Dover, April 2, 1869.

CHAPTER 484.

MILTON ACADEMY.

An Act to Incorporate Milton Academy and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,)* That all the school districts or parts of districts, being in whole or in part in the town of Milton, Numbers 8, 12, 93, 160, or which now receive the benefits of the schools kept in said town, be and they are hereby declared incorporated into one common school district, to be governed and managed by seven trustees to be annually elected by the school voters of said districts, to serve for the term of one year and until successors shall be duly elected; they Certain School Districts incorporated. Trustees.

Their powers and duties.

shall have full power and authority to levy and raise by taxation, in the same manner as such taxes are assessed, levied and collected under the laws concerning free schools in this State, such sums of money as they shall deem necessary for the erection of suitable buildings for the accommodation of all the scholars of a proper age residing within said districts, and for the support of the school or schools to be taught therein; also, to employ all the teachers necessary to carry into effect the objects of this corporation. And it is hereby declared to be the duty of said trustees, and the intention of this act, that they shall *make ample provision for the tuition of scholars from the primary branches of an education up to and including a full academic course;* and generally to do all other acts and things incident to such corporation: *Provided,* That the amount to be raised by taxation in any one year for the erection of buildings, or the support or maintenance of the schools, shall be determined by the voters at the annual meeting, and that no greater sum than fifteen hundred dollars shall be raised by the regular tax in any year for the support of the schools of said district, or the erection of buildings.

Proviso.

Taxation limited.

Property of consolidated districts.

SECTION 2. *And be it further enacted as aforesaid,* That all the property, both real and personal, or mixed, now held by the five united or consolidated districts, under this act shall be deemed, taken and held to be the common property of all said districts as united or consolidated by virtue of this act. And in all the future distributions of the school funds of this State, among the several school districts thereof, the Trustee of said fund shall treat this consolidated district as five districts, and make the distribution accordingly; *Provided,* That in the distribution or disposal that may be made of the property held by the districts embraced in this act, that all excess over the amount realized by the district possessing the least valuable property shall revert to the district or districts respectively realizing a larger amount, and shall be used by them towards the payment of the first tax that may be levied for the purpose of carrying out the provisions of this act. The trustees to be elected pursuant to Section 1 of this act may, in their discretion, admit into said school or schools to be conducted under this act, persons residing out of the limits of this corporation, or persons over the age of twenty-one years, on such times [terms] as they shall deem equitable, and the proceeds of the tuition of scholars so admitted shall be paid over to the treasurer of said institution as a part of the common fund thereof.

Proviso.

Of the admission of scholars not resident in the district.

Money, how raised, if taxation be deemed imprudent.

SECTION 3. *And be it further enacted as aforesaid,* That if the trustees herein mentioned shall deem it imprudent to raise by taxation the whole sum necessary to carry into effect the objects

of this corporation at one time, they may, in their discretion, levy and raise by taxation such portion thereof as they may deem proper, and borrow, on bond and mortgage on the property of said school district, or consolidated school districts, or otherwise, the balance of the sum necessary to carry into effect the objects and designs of this act, and to liquidate the same by annual installments, or otherwise, as may be agreed upon by said trustees and the party or parties making such loan.

Qualifications of trustees.

SECTION 4. *And be it further enacted as aforesaid*, That the trustees to be elected as aforesaid shall be property holders within the limits of said corporation, and shall have resided therein at least one year before their election as such trustees. They shall have full power and authority to erect the necessary building or buildings on the lot or lots now owned by said district or districts; or, if deemed best, to sell any one or all the lots now owned by said district or districts, and to purchase another location more suitable for the purposes contemplated by this act: *Provided however*, That before any such sale of the present property of said district or districts shall be made as aforesaid, the said trustees shall call a meeting of the voters of said district or districts, and lay before them the new location proposed for the erection of the school buildings aforesaid, and a vote shall be taken for and against such change; and if a majority of the voters present at such election shall vote in favor of making the change proposed as aforesaid, then said trustees are hereby authorized and empowered to sell and dispose of all the present property of said district or districts, or such part thereof as shall be agreed upon by the voters of such district or districts, and execute a deed or deeds for the same, under the hands and seals of said trustees, or a majority of them, which deed or deeds so as aforesaid executed shall convey and transfer to the purchaser or purchasers all the right and title of said district or districts of, in and to the property so as aforesaid conveyed; and said trustees shall take from the person or persons of whom said new property shall have been purchased a deed in such manner as shall secure a good and valid title to said district or districts in such lands and premises so as aforesaid purchased forever.

Present property of said districts may be sold.

How.

Title of purchaser.

Corporate name.

SECTION 5. *And be it further enacted as aforesaid*, That when the necessary structures and buildings shall have been erected and completed, the same shall be deemed and by force of this act shall become a corporation by the name, style and title of the "Milton Academy," and may have and use a common seal, and the same from time to time alter and renew, as shall be deemed proper by the trustees thereof. They shall appoint one of their board treasurer, who shall give bond in twice the amount esti-

Treasurer.

Bills against institution, how audited and paid.

mated to come into his hands as treasurer, as aforesaid. All bills against said institution shall be audited by said trustees, or a majority of them, and paid by drafts on the treasurer, and the drafts so drawn and paid by said treasurer shall be vouchers from which the account of said treasurer shall annually be settled.

Supplemental tax.

SECTION 6. *And be it further enacted as aforesaid,* That the trustees annually to be elected shall have full power and authority to levy and collect a supplement tax, outside and beyond the regular tax to be annually assessed, which shall be laid upon such persons as are receiving the greatest amount of benefit from said schools, in such proportions as said trustees shall deem equitable and just in the premises, which tax shall be collected the same as the regular taxes are collected, and subject to all the laws for the collection of said regular taxes. The said trustees shall receive no compensation for their services, except such as may be voted them at the annual election for trustees. Said trustees shall, annually, lay before the voters of said district, at the annual election for trustees, a full account of their doings in the premises since their election, embracing the number of scholars taught, the department in which they have been taught, the number of teachers employed, and the sum paid to them respectively, with any other information in relation to the conducting of said schools that they may deem of interest to the voters of said district.

Trustees to receive no compensation.

Their annual report.

Restriction on supplemental taxation.

SECTION 7. *And be it further enacted by the authority aforesaid,* That no supplement tax shall be assessed upon the inhabitants of said district under the provisions of Section 6 of this act, in any year, unless a tax equivalent to three hundred dollars, clear of delinquents and commissions, shall have been levied and raised for each of the districts composing the consolidated district, to wit: the sum of fifteen hundred dollars as the regular tax of said district. The election for trustees shall be held under this act at the same time as the school elections of this State are held for school committees. The trustees to be elected shall make, or cause to be made, the necessary assessments on the persons and property of said district, and [hold] a court to hear any and all appeals therefrom, the same as is provided by law in regard to other school districts of this State.

Election for Trustees. When held.

Assessments

Succession.

SECTION 8. *And be it further enacted as aforesaid,* That this act shall be deemed an incorporation for public purposes and improvement, and shall have succession for the period of twenty years, reserving, nevertheless, to the Legislature the right to alter, amend or repeal the same for abuse or misuse of its corporate franchises.

Revocation.

IN RELATION TO BANKS.

SECTION 9. *And be it further enacted,* That the provisions of this act shall only apply to and include such districts of the town of Milton as shall, at a meeting to be called for that purpose, accept the same by a majority of the school voters at such meeting, of which due notice shall be given by written advertisement, posted in five of the most public places in the district. Such notice shall be given by the present school committees of the respective districts, or the clerks thereof, stating the day, hour and place of meeting, and the purpose for which it is called; all votes shall be given by ballot at said election, and it shall be the duty of the officers appointed to conduct such election to certify, under their hands and seals, the acceptance or non-acceptance of this act to the Clerk of the Peace of Sussex county, who shall file the same in his office. In voting, those in favor shall vote "aye," and those opposed "no."

Act to be accepted by different districts.

Passed at Dover, April 7, 1869.

CHAPTER 485.

PEACH GROWERS' BANK OF DELAWARE.

IN RELATION TO BANKS.

An Act to Incorporate a Bank in Middletown, under the name of "The Peach Growers' Bank of Delaware, at Middletown."

Commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring,)* That Serick F. Shallcross, Benjamin T. Biggs, Martin E. Walker, John A. Reynolds, William Knight, Richard C. Johnson, John P. Cochran, Edward C. Fenimore, Robert A. Cochran and William J. Griffith, be and they are hereby appointed commissioners to do and perform the things hereinafter mentioned, that is to say: they, or any five of them, shall, on or before the first Monday in September next, procure a sufficient number of suitable books, one of which shall be opened in Middletown, and the others, if it shall be deemed advisable by the said commissioners, at such other place or places as they shall think proper, in each of which books they shall enter as follows: "We, whose names are hereunto subscribed, do promise to pay to 'The Peach Growers' Bank of Delaware, at Middletown,' the sum of fifty dollars for each and every share of stock set opposite to our respective names, in such manner, sums, and at such times as shall be directed by the President and Directors of said Bank," and shall thereupon give notice in two newspapers printed in New Castle county, and in such other papers as they may deem proper, at least twenty days, of the time and place or places when and where the said books will be opened to receive subscriptions for the capital stock of the said bank, at which time and place or places two or more of the said commissioners shall attend and permit all persons of lawful age, who shall offer to subscribe, in the manner following, that is to say: on the first day on which the said books are opened no person shall subscribe for more than twenty shares, either in his own name or as attorney for another, and on the second day on which the said books shall be opened the same restriction shall apply, and if at the expiration of the second day the whole number of one thousand shares shall not have

When and where books to be opened.

Form of subscription.

Notice of opening books.

Limitation of subscription.

been subscribed, then on the third day, or any subsequent day on which the said books shall be opened, it shall be lawful for any person in his own name, or as attorney for another, to subscribe for any number of shares of the said stock until the whole number of one thousand shares shall be subscribed. The commissioners shall keep the books open at least three days and at least six hours in each day unless the whole number of one thousand shares shall have been before that time subscribed, upon ascertaining which they may close the books. If it should happen that more than one thousand shares shall be subscribed, then the commissioners, or a majority of them, are hereby authorized and directed to deduct from the highest subscription or subscriptions until the shares be reduced to the proper number.

How long books to be kept open.

Deductions, if excess of subscriptions.

SECTION 2. *And be it further enacted,* That the said commissioners, in receiving subscriptions to the said capital stock, shall not suffer or permit more than two-fifths of the said capital stock to be subscribed for by persons not residing in this State, either personally or by attorney, and in case it should so happen that more than two-fifths of said stock shall have been subscribed for by non-residents as aforesaid, then the said commissioners shall deduct from said subscriptions last subscribed by such non-residents until the aggregate amount so subscribed for by them shall be reduced to two-fifths. And if, at any time after the bank hereby established shall have commenced business, and during the continuance of the said corporation, it should so happen that by subscription or sale a proportion of said stock greater than a majority shall be held or owned by persons not residing in this State, either in their own names or in the name of any other person as attorney, then the share or shares constituting such majority or overplus, and last subscribed or sold and transferred on the books of the said corporation, shall be forfeited by the directors for the benefit of the said corporation, and in case of the removal of any stockholder from the State so that he ceases to be a citizen, if the amount of stock held or owned by him shall increase the amount of stock held or owned out of the State to a proportion greater than a majority, it shall be incumbent on such stockholder to sell and transfer his said stock or so much thereof as will reduce the amount so held or owned out of the State to less than a majority to some person or persons resident within this State, within three months from the time of such removal, or the same shall be forfeited by the said directors for the benefit of the corporation.

How much may be subscribed by non-residents.

Deductions, if excess.

If non-residents own majority of shares, forfeiture of shares.

Removal of stockholder from State if his stock makes excess held by non-residents, to sell the whole or part thereof

If not sold within three months to be forfeited.

SECTION 3. *And be it further enacted,* That the capital stock of the said company shall be fifty thousand dollars divided into one thousand shares of fifty dollars each.

Capital stock $50,000.

IN RELATION TO BANKS.

Five dollars per share to be paid at subscription

SECTION 4. *And be it further enacted,* That each subscriber to the stock of said company shall pay to the commissioners aforesaid, at the time of subscribing for the same, the sum of five dollars on each share subscribed. It shall be lawful for the directors of said company, appointed in the manner hereinafter directed, to call in and demand of the stockholders respectively all such sums of money as are by them subscribed, by installments not exceeding ten dollars per share, upon giving thirty days previous notice to the stockholders in two newspapers printed in New Castle county, and in such other newspapers as the said directors shall deem proper, and in case of failure in the payment of all or any part of the said installments at the time or times so required, every share on which such failure shall have occurred, and the interest or dividends on all moneys previously paid, may be forfeited by the said directors for the benefit of the corporation, or in case they should not elect to forfeit said share or shares, it shall and may be lawful for the said corporation to sue, either at law, by action of debt, or assumpsit, or in equity, for the recovery of any sum or sums of money due or to become due as aforesaid from any subscriber, and in all suits either at law or in equity in the courts of this State, by or against the said company, this shall be deemed and taken to be [a] public act and need not be set forth in the pleadings or given in evidence.

Residue in installments not exceeding ten dollars per share.

Notice of calls.

Delinquent subscribers may be sued or shares forfeited.

Public act.

When whole amount subscribed company incorporated.

SECTION 5. *And be it further enacted,* That as soon as the whole amount of one thousand shares shall have been subscribed, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of "The Peach Growers' Bank of Delaware, at Middletown," and by that name shall have continuance and succession for the term of twenty years from the date of this act, and shall be able to sue and be sued, plead and be impleaded in all courts of law and equity, to purchase, take, receive, have, hold and enjoy to them and their successors, lands, tenements, goods, chattels and effects of whatsoever kind, nature or quality, and the same to sell, grant, demise, alien or dispose of, and also to have a common seal, and the same to break, alter, or renew at their pleasure.

Name.

Term.

Corporate powers

When $30,000 paid in may commence business

SECTION 6. *And be it further enacted,* That the said bank shall have power to commence business as soon as the sum of thirty thousand dollars, current lawful money of the United States, shall have been actually paid in and deposited in its vaults, and not before; and it shall be the duty of the directors to make a statement, under oath or affirmation, of the description and amount of such deposits, and transmit the same to the Governor of this State previous to the bank going into operation.

Statement under oath.

IN RELATION TO BANKS.

SECTION 7. *And be it further enacted,* That for the proper management of the business and affairs of the said corporation there shall be nine directors, who shall be elected by the stockholders in the manner and at the times hereinafter directed, and who shall choose a president from among their number. They shall be stockholders at the time of their election, and also during the term of service, and a majority of them shall be citizens of this State, residing in New Castle county.

Directors. President Qualifications.

SECTION 8. *And be it further enacted,* That the commissioners aforesaid, as soon as conveniently may be after the capital stock has been subscribed as aforesaid, shall give ten days' notice, in two newspapers printed in New Castle county, and in such other newspapers as they may deem advisable, of the time and place, in Middletown, at which the subscribers shall meet in order to organize the said company; and the said commissioners, or any two of them, may hold the election, at which time and place the said subscribers shall choose, by a majority of the votes present, to be given in person or by proxy, nine directors; and the said directors shall, at their first meeting after the election, choose one of their number to be president, and shall manage and conduct the business and affairs of the company until the first Thursday in May, in the year one thousand eight hundred and seventy; and there shall be another meeting of the stockholders on the said first Thursday in May, in the year one thousand eight hundred and seventy, and on the same day in every year thereafter, in Middletown, of which twenty days' notice shall be given as aforesaid, at which meeting and meetings the stockholders shall choose, by a majority of votes present, given in person or by proxy, nine directors, who shall continue in office for one year and until others be chosen, and in case of a vacancy or vacancies in the Board of Directors by death or resignation, or otherwise, the remaining directors shall have power to fill such vacancy or vacancies by election from among the stockholders of the said bank, and the said directors shall, at the first meeting after the election, choose a president from among their number. Special meetings of the stockholders, of which notice shall be given as aforesaid, shall be called by the directors upon the request, in writing, of stockholders owning five hundred shares of stock, or whenever the directors shall deem it necessary, and on all occasions of voting each stockholder shall be entitled to one vote for each share held by him, which has been so held by him three calender months before the day of voting. At every election of directors, two stockholders, not being directors, shall be appointed judges of the said election by the stockholders present, who shall decide upon the qualification of voters, and declare who has

Notice of election. Directors. President. Term of office Annual meeting of Stockholders Notice. Election of Directors. Term. Vacancies, how filled. President. Special meetings. Notice. How called. Regulations as to voting. Judges of election. Duties.

been elected, and certify the same to the existing Board of Directors. In case it should happen at any time that an election of directors shall not be made on the day above mentioned, the corporation shall not therefore be dissolved, but it shall be lawful to hold the said election at a special meeting, to be called immediately by the directors according to the provisions of this act.

Corporation not dissolved by failure to elect.

Corporate powers, by whom exercised.

Powers of Directors to make by-laws, &c., by two-thirds vote.

Repeal.

President to vote as Director.

Meetings, how called.

Salaries.

SECTION 9. *And be it further enacted,* That all the corporate powers of the said company shall be exercised by the directors and such officers and agents as they shall appoint. The directors shall have power to make all by-laws, rules and regulations necessary and proper for the government of the company and not repugnant to the constitution and laws of this State or of the United States, but no by-laws shall be enacted or repealed unless by a vote of two-thirds of all the directors. On all questions before the board the president shall vote as a director. Meetings of the directors, either stated or special, shall be called or held as the by-laws shall prescribe, and three directors shall constitute a quorum for the transaction of business. The directors shall allow such salaries to the president and other officers as they shall deem reasonable, but no director shall be entitled to any salary unless the same shall [have] been allowed by the stockholders.

Banking powers.

Fundamental articles.

What lands corporation may hold.

Rate of interest.

Bills and notes, by whom signed.

Banking house in Middletown.

Corporation subject to Sec. 6, Chap. 71, Rev. Code

Stock, how assignable.

Amount of debts.

SECTION 10. *And be it further enacted,* That the said corporation is hereby vested with banking powers, and that in the exercise of the same the following shall be fundamental articles of its government, that is to say: First. The said corporation shall hold no lands, tenements or hereditaments but such as shall be required for the convenient transaction of its business, or such as shall be bona fide mortgaged or pledged to it as security for debts, or purchased at sales upon judgments, or decrees which shall have been obtained for such debts. Second. The said corporation shall not take more than at the rate of one per centum for every sixty days upon its loans and discounts. Third. All bills and notes not under the corporate seal of the company shall be signed by the president and by such officer of the bank as shall be appointed by the directors for that purpose. Fourth. The said company shall keep their banking house in Middletown and their notes shall be made payable therein *reference to which it is hereby declared to be subject to the operation of Section 6 Chapter 71 of the Revised Code. Fifth. The stock of said corporation shall be assignable and transferable in such manner as shall be prescribed by the by-laws. Sixth. The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed

* So in enrolled bill.

double the amount of capital actually paid in, unless a greater amount of indebtedness be authorized by a law of this State. Money deposited in said bank for safe keeping shall not be considered as debts within the meaning of the above clause. In case of excess the directors under whose administration it shall happen shall be individually and in their private capacities liable in an action of debt for such excess, but any director or directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was contracted or created, may be exonerated from such liability by forthwith giving notice of the fact, and of such absence or dissent, to the stockholders at a general meeting which said director or directors shall have power to call for that purpose. Seventh. The directors shall require from the cashier and accounting officers of the bank such bond and security for the faithful performance of their duties as shall be prescribed by the by-laws.

Deposits not considered debts.

Liability of Directors in case of excess.

When Director not liable

Bond of officers.

SECTION 11. *And be it further enacted,* That the stockholders of the corporation created by this act, in addition to said stock, shall be individually liable and responsible to the amount of their respective share or shares of stock for the payment and redemption of all circulating notes made and issued by the said corporation.

Individual liability of stockholders for redemption of notes.

SECTION 12. *And be it further enacted,* That for the purpose of determining who are the stockholders liable, the extent of liabilty of each and the mode of its enforcement, it shall and may be lawful for any holder of any circulating note or notes, made and issued by the said corporation, to present the same for payment and demand payment thereof during the usual hours of business, at the place where such note or notes is or are made payable, and if the said corporation shall fail or refuse to redeem such note or notes in the lawful money of the United States, the holder of such note or notes making such presentment and demand may require of the president and cashier of the said corporation a true and correct list of all the stockholders of such corporation at the time when such demand and refusal shall be made, which list shall be made out and verified by the oath or affirmation of the said president and cashier, and recorded in the office of the Recorder of Deeds of New Castle county, within ten days after such demand and refusal, and such list or a certified copy thereof shall be evidence in any suit against a stockholder to prove the fact that such person was a stockholder at the time of such demand and refusal, and of the amount of shares owned by him, and no transfer of stock after the time of such demand and refusal shall exonerate or discharge any such stockholder from

Manner of determining liability of stockholder.

Holder of notes to present the same for payment.

If notes not redeemed may require list of stockholders under oath.

List to be recorded in ten days.

Evidence

No transfer after demand to exonerate

liability on account of such stock, but he shall, notwithstanding such transfer, be deemed and taken for the purpose of such liability to be still the owner of the amount of stock stated in such list to be owned by him at the time of such demand and refusal aforesaid. The mode of the enforcement of such liability shall be as follows: After assets of the said corporation applicable by law to the redemption and payment of the said circulating notes issued by the said corporation shall have been exhausted, which shall be evidenced by a judgment against the said corporation and a return thereon, then it shall and may be lawful for any person holding any note or notes so issued to present the same to any stockholder for payment, and if the same or such part thereof as he shall be shown by the said list to be liable to pay, in case the said note or notes be for a greater amount than his liability, shall not be paid within five days after such presentment and demand, such holder may proceed to recover from such stockholder the amount of the said note or notes as though the same had been made by him individually in the same mode and manner as debts of a like amount and character are recoverable by the laws of this State: *Provided*, that no stockholder shall be liable to any greater extent than is provided in the foregoing section, and provided that if any such holder shall fail to recover the whole of any such note or notes from any stockholder on account of the inability of such stockholder to pay the same, or because the liability of such stockholder has been exhausted to the extent of the share or shares owned by him, then such holder may proceed to recover the balance from any other stockholder in the same manner. No person who holds any such stock bona fide in trust for another shall be deemed or taken to be in any manner liable individually on account of such stock. The stockholders who shall pay more than their pro rata share shall be entitled to contribution from the others.

When assets of corporation exhausted, to present notes to stockholder for payment.

If not paid in five days may proceed against stockholder individually

Limit of liability.

If whole amount not recovered from one stockholder, may proceed against any other.

Persons holding stock in trust not individually liable.

Contribution

SECTION 13. *And be it further enacted*, That nothing in this act shall be deemed or construed to render any stockholder individually liable for a failure of the said corporation to redeem any such note in money of the United States at any time when all other banking corporations in this State shall have temporarily suspended payment of their notes in specie, but in such case the corporation created by this act shall be subject to the same laws which govern other banking corporations now existing.

Stockholder not liable for failure of bank to redeem if other banks have suspended specie payment.

SECTION 14. *And be it further enacted*, That the directors of the said bank shall have the power to increase the capital stock thereof to one hundred thousand dollars, and the number of shares to two thousand, whensoever, in their judgment, they may deem it necessary or advisable: *Provided*, that at any gen-

Capital stock may be increased.

eral or special meeting of the stockholders the consent of the owners of a majority of the capital stock is given so to do. Consent of Stockholders

SECTION 15. *And be it further enacted,* That the power of revoking this act is hereby reserved to the Legislature. Revocation.

SECTION 16. *And be it further enacted,* That if the said corporation shall not be fully organized according to the provisions of this act on or before the first day of January, one thousand eight hundred and seventy-two, then and in that case this act shall be null and void and of no effect. Act void if corporation not organized by Jan. 1, 1872.

SECTION 17. *And be it further enacted,* That the said corporation shall semi-annually pay into the treasury of this State for the use of the State a tax [of] one-half of one per centum on the amount of the capital stock actually paid in. Tax to the State.

Passed at Dover, March 30, 1869.

CHAPTER 486.

COMMERCIAL BANK OF SMYRNA.

IN RELATION TO BANKS.

An Act to Incorporate a Bank in the Town of Smyrna under the name of "The Commercial Bank of Smyrna."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,)* That Mason Bailey, Benjamin S. Gootee, Horace Spruance, Henry C. Douglass and William C. Jump be and they are hereby appointed commissioners to do and perform the things hereinafter mentioned, that is to say, they or any three of them shall, on or before the first Tuesday in July next, procure a sufficient number of suitable books, one of which shall be opened in Smyrna, and the others, if it shall be deemed advisable by the said commissioners, at such other place or places as they shall think proper, in each of which books they shall enter as follows: "We, whose names are hereunto subscribed, do promise to pay to 'The Commercial Bank of Smyrna' the sum of one hundred dollars for each and every share of stock set opposite to our respective names, in such manner, sums and at such times as shall be directed by the president and directors of said bank," and shall thereupon give notice in two newspapers published in this State, and in such other papers as they may deem proper, at least twenty days of the time and place or places when and where the said books will be opened to receive subscriptions for the capital stock of the said bank, at which time and place or places two or more of the said commissioners shall attend and permit all persons of lawful age, who shall offer to subscribe, in the manner following, that is to say: on the first day on which the said books are opened no person shall subscribe for more than twenty shares, either in his own name or as attorney for another, and on the second day on which the said books shall be opened, the same restriction shall apply, and if at the expiration of the second day the whole number of five hundred shares shall not have been subscribed, then, on the third day, or any subsequent day, on which the said books shall be opened, it shall be lawful for any any person, in his own name, or as attorney for another, to subscribe for any number of shares of the said stock until the whole number of five hundred shares shall be subscribed. The commissioners shall keep the books open at least three days, and at least six hours in each day, unless the whole number of five hundred shares shall have been before that time subscribed, upon ascertaining which they may close the books. If it should so happen that more than five hundred shares shall be subscribed, then the commissioners, or a majority of them, are hereby authorized and directed to deduct from the highest subscription or subscriptions until the shares be reduced to the proper number.

Commissioners appointed.

When and where books to be opened.

Form of subscription.

Notice of opening books.

Limitation of subscription.

How long books to be kept open.

Deductions, if excess of subscriptions.

IN RELATION TO BANKS.

SECTION 2. *And be it further enacted,* That the said commissioners, in receiving subscriptions to the said capital stock, shall not suffer or permit more than two-fifths of the said capital stock to be subscribed for by persons not residing in this State, either personally or by attorney, and in case it should so happen that more than two-fifths of said stock shall have been subscribed for by non-residents as aforesaid, then the commissioners shall deduct from said subscriptions last subscribed by such non-residents until the aggregate amount so subscribed for by them shall be reduced to two-fifths. And if, at any time after the bank hereby established shall have commenced business, and during the continuance of the said corporation, it shall so happen that by subscription or sale a proportion of said stock greater than a majority shall be held or owned by persons not residing in this State, either in their own names or in the name of any other person as attorney, then the share or shares constituting such majority or overplus, and last subscribed or sold and transferred on the books of the corporation, shall be forfeited by the directors for the benefit of the said corporation, and in case of the removal of any stockholder from the State so that he ceases to be a citizen, if the amount of stock held or owned by him shall increase the amount of stock held or owned out of the State to a proportion greater than a majority, it shall be incumbent on such stockholder to sell and transfer his said stock or so much thereof as will reduce the amount so held or owned out of the State to less than a majority to some person or persons resident within this State, within three months from the time of such removal, or the same shall be forfeited by the said directors for the benefit of the corporation.

Not more than two-fifths to be subscribed by non-residents.

Deductions, if more than two-fifths subscribed by non-residents.

Forfeiture of stock if more than majority owned by non-residents.

Non-resident Stockholders required to sell stock, when.

If not sold within three months to be forfeited.

SECTION 3. *And be it further enacted,* That the capital stock of the said company shall be fifty thousand dollars divided into five hundred shares of one hundred dollars each.

Capital stock $50,000.

SECTION 4. *And be it further enacted,* That each subscriber to the stock of said company shall pay to the commissioners aforesaid, at the time of subscribing for the same, the sum of ten dollars on each share subscribed. It shall be lawful for the directors of the said company, appointed in the manner hereinafter directed, to call in and demand of the stockholders respectively, all such sums of money as are by them subscribed, by installments not exceeding twenty dollars per share, upon giving thirty days' previous notice to the stockholders in two newspapers printed in this State, and in such other newspaper as the said directors shall deem proper; and in case of failure in the payment of all or any part of the said installment at the time or times so required, every share on which such failure shall have

Ten dollars per share to be paid at subscription

Notice of calls.

IN RELATION TO BANKS.

Delinquent subscribers may be sued or shares forfeited.

occurred and the interest or dividends on all moneys previously paid may be forfeited by the said directors for the benefit of the corporation, or in case they should not elect to forfeit the said share or shares, it shall and may be lawful for the said corporation to sue, either at law, by action of debt, or assumpsit, or in equity, for the recovery of any sum or sums of money, due or to become due as aforesaid, from any subscriber; and in all suits, either at law or in equity, in the courts of this State, by or against the said company, this act shall be deemed and taken to be a public act and need not be set forth in the pleadings or given in evidence.

Public act.

When whole amount subscribed company incorporated.

Name.

Term.

Corporate powers.

SECTION 5. *And be it further enacted,* That as soon as the whole amount of five hundred shares shall have been subscribed, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of "The Commercial Bank of Smyrna," and by that name shall have continuance and succession for the term of twenty years from the date of this act, and shall be able to sue and be sued, plead and be impleaded in all courts of law and equity, to purchase, take, receive, have, hold and enjoy to them and their successors, lands, tenements, goods, chattels and effects of whatsoever kind, nature or quality, and the same to sell, grant, demise, alien or dispose of, and also to have a common seal, and the same to break, alter, or renew at their pleasure.

When to commence business.

Statement under oath.

SECTION 6. *And be it further enacted,* That the said bank shall have power to commence business as soon as the sum of twenty thousand dollars, current lawful money of the United States, shall have been actually paid in and deposited in the vaults of said bank, and not before; and it shall be the duty of the directors to make a statement, under oath or affirmation, of the description and amount of such deposits, and transmit the same to the Governor of this State previous to the bank going into operation.

Directors.

President

Qualifications.

SECTION 7. *And be it further enacted,* That for the proper management of the business and affairs of the said corporation there shall be five directors, who shall be elected by the stockholders in the manner and at the times hereinafter directed, and who shall choose a president from among their number. They shall be stockholders at the time of their election, and also during their term of service, and shall be citizens of this State.

Notice of election.

SECTION 8. *And be it further enacted,* That the commissioners aforesaid, as soon as conveniently may be after the capital stock has been subscribed as aforesaid, shall give ten days' notice, in two newspapers printed in this State, and in such other news-

IN RELATION TO BANKS.

papers as they may deem advisable, of the time and place, in Smyrna, at which the subscribers shall meet in order to organize the said company; and the said commissioners, or any two of them, may hold the election, at which time and place the said subscribers shall choose, by a majority of the votes present, to be given in person or by proxy, five directors; and the said directors shall, at their first meeting after their election, choose one of their number to be president, and shall manage and conduct the business and affairs of the company until the first Tuesday in July, in the year one thousand eight hundred and sixty-nine; and there shall be another meeting of the stockholders on the said first Tuesday in July, in the year one thousand eight hundred and sixty-nine, and on the same day in every year thereafter, in Smyrna, of which twenty days' notice shall be given as aforesaid, at which meeting and meetings the stockholders shall choose, by a majority of votes present, given in person or by proxy, five directors, who shall continue in office for one year and until others be chosen, and in case of a vacancy or vacancies in the Board of Directors by death, resignation, or otherwise, the remaining directors shall have power to fill such vacancy or vacancies by election from among the stockholders of the said bank, and the said directors shall, at the first meeting after the election, choose a president from among their number. Special meetings of the stockholders, of which notice shall be given as aforesaid, shall be called by the directors upon the request, in writing, of stockholders owning two hundred and fifty shares of stock, or whenever the directors shall deem it necessary, and on all occasions of voting each stockholder shall be entitled to one vote for each share held by him, which has been so held by him three calendar months before the day of voting. At every election of directors, two stockholders, not being directors, shall be appointed judges of the said election by the stockholders present, who shall decide upon the qualification of voters, and declare who has been elected, and certify the same to the existing Board of Directors. In case it should happen at any time that an election of directors shall not be made on the day above mentioned, the corporation shall not therefore be dissolved, but it shall be lawful to hold the said election at a special meeting, to be called immediately by the directors according to the provisions of this act.

Directors.

President.

Term of office.

Annual meeting of Stockholders

Notice.

Term of Directors.

Vacancies, how filled.

President.

Special meetings of stockholders.

Regulations as to voting.

Judges of election.

Corporation not dissolved by failure to elect

SECTION 9. *And be it further enacted,* That all the corporate powers of the said company shall be exercised by the directors and such officers and agents as they shall appoint. The directors shall have power to make all by-laws, rules and regulations necessary and proper for the government of the company and not repugnant to the constitution and laws of this State or of the

Corporate powers, by whom exercised.

By-laws

IN RELATION TO BANKS.

United States, but no by-laws shall be enacted or repealed unless by a vote of two-thirds of all the directors. On all questions before the board the president shall vote as a director. Meetings of the directors, either stated or special, shall be called or held as the by-laws shall prescribe, and three directors shall constitute a quorum for the transaction of business. The directors shall allow such salaries to the president and other officers as they shall deem reasonable, but no director shall be entitled to any salary unless the same shall have been allowed by the stockholders.

President to vote as Director.

Meetings of Directors.

Quorum.

Salaries.

SECTION 10. *And be it further enacted,* That the said corporation is hereby vested with banking powers, and that in the exercise of the same the following shall be fundamental articles of its government, that is to say: First. The said corporation shall hold no lands, tenements or hereditaments but such as shall be required for the convenient transaction of its business, or such as shall be bona fide mortgaged or pledged to it as security for debts, or purchased at sales upon judgments, or decrees which shall have been obtained for such debts. Second. The said corporation shall not take more than at the rate of one per centum for every sixty days upon its loans and discounts. Third. All bills and notes not under the corporate seal of the company shall be signed by the president and by such officer of the board as shall be appointed by the directors for that purpose. Fourth. The said company shall keep their banking house in Smyrna and their notes shall be made payable there, in reference to which it is hereby declared to be subject to the operation of Section 6 of Chapter 71 of the Revised Code entitled "of Banks." Fifth. The stock of the said corporation shall be assignable and transferable in such manner as shall be prescribed by the by-laws. Sixth. The total amount of debts which the said corporation shall at any time owe, whether by note, bill, or otherwise, deposits not included, shall not exceed double the amount of capital actually paid in. In case of excess, the directors constituting the board under whose administration such excess was contracted or created, shall be individually liable in an action of debt for such excess, but any director or directors who may have been absent when said excess was contracted or created, or who may have dissented from the resolution or act creating it, shall be exonerated by forthwith giving notice of the fact and of such absence or dissent to the stockholders at a general meeting, which such director or directors shall have power to call for that purpose. Seventh. The directors shall require from the cashier and accounting officers of the bank such bond and security for the faithful performance of their duties as shall be prescribed by the by-laws.

Banking powers.

Fundamental articles.

What lands corporation may hold.

Rate of interest.

Bills and notes, by whom signed.

Banking house in Smyrna.

Corporation subject to Sec. 6, Chap. 71, Rev. Code

Amount of debts.

Liability of Directors for excess.

When Directors not liable for excess.

Bond of officers.

CONCERNING RAILROADS.

SECTION 11. *And be it further enacted,* That the said corporation shall semi-annually pay into the treasury of this State, for the use of the State, a tax of one-half of one per centum per annum on the amount of capital actually paid in. State tax.

SECTION 12. *And be it further enacted,* That the stockholders of the said company shall have power to increase the capital stock of said bank to one hundred thousand dollars, and the number of shares to one thousand: *Provided* that at any general or special meeting of the stockholders the consent of the owners of two-thirds of the capital stock is given so to do. Capital stock may be increased. Consent of Stockholders

SECTION 13. *And be it further enacted,* That the power of revoking this act is hereby reserved to the Legislature. Revocation.

Passed at Dover, April 7, 1869.

CHAPTER 487.

GENERAL PROVISIONS CONCERNING RAILROADS.

An Act Concerning Railroads.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all railroads in this State crossing any turnpike, public road, or private roadway, shall be so constructed as not to impede or obstruct the usual and necessary travel over said roads, and every railroad company, now or hereafter to be incorporated in this State, shall make and maintain, in all such cases, either bridges over the railroad, passages under the same, or crossings thereof at grade, according as the circumstances of the case and Railroads crossing turnpikes, &c., to be constructed so as not to impede travel.

CONCERNING RAILROADS.

Bridge crossings.

Grade crossings.

the public safety may require. In case of bridge-crossings over a railroad, they shall be well constructed, not less than sixteen feet in clear width for travel, with causeways or approaches on each side of not less width than the bridge, protected by good and sufficient railings or guards, and all grade-crossings shall be well planked or macadamized between the rails, not less than sixteen feet in width, and no causeways or approaches to either bridges or grade-crossings shall be of a heavier grade than five degrees, protected as aforesaid.

Right of company to petition for change of road.

Proceedings to be in accordance with Chap. 60, Rev. Code, p. 168.

Costs.

Company may make change by agreement with land holders and approval of road commissioners.

Certificate thereof.

Return, &c.

SECTION 2. *Be it further enacted,* That any railroad company now existing or hereafter to be incorporated in this State, may petition for a change in the location of any public or private road crossed by or running in near proximity to the line of their railroad, and said petition shall be preferred as set forth in Section 4 of Chapter 60 of the Revised Code, excepting that the petition shall be sufficient if signed by the president of such company, attested by the corporate seal thereof, whereupon the proper court shall have jurisdiction in the premises, and all the proceedings shall be in accordance with the provisions of said Chapter 60, excepting, and it is hereby provided that the said railroad company shall pay the expenses, costs, and damages accruing upon the changing of said road, and *provided further,* that any such railroad company by agreement with the land-holders interested, and the approval of the road commissioners of the hundred wherein the same is located, may, without proceedings had as aforesaid, change, at the expense of such company, any public or private road as aforesaid whenever a change will add to the safety of public travel, said change to be made subject to the approval of the road commissioners of the hundred wherein the same is located, to be certified in writing and appended to a draft thereof, which said draft and certification returned to and recorded by the clerk of the peace of the county wherein the same is located shall, to all intents and purposes, confirm the change.

When temporary roads shall be made.

Right of entry.

Damages.

SECTION 3. *Be it further enacted,* That when the construction of any railroad in this State shall require the temporary obstruction of any public road, private road, or turnpike, the said railroad company shall cause to be made, wherever practicable, a temporary side-road for the public to pass and repass upon, and for said purpose shall have power to enter upon any adjacent lands, provided that before entering thereupon such company shall pay or secure to be paid unto the proper parties all damages, if any, occasioned by the making of said temporary road, to be determined by agreement with the parties, or by the award of five disinterested citizens of the county to be appointed by any

justice of the peace not residing in the hundred or hundreds where said road is to be made as referees, the expense of said proceedings to be paid by the party applying therefor. The said justice of the peace shall make such appointment at the request of the president of such company, or the other parties interested, such request to be made in writing, accompanied with an affidavit of the party to the effect that written notice has been given to the adverse party of the time and place of the preferring of said request at least five days previous to said time.

Expenses.

Application for appointment of persons to assess damages.

Notice.

SECTION 4. *Be it further enacted,* That if any such railroad company shall, at any time, obstruct any public or private road, or shall fail to comply with the provisions of this act in respect to bridges, causeways, or crossings, it shall be the duty of the road commissioners or overseers of the hundred wherein said obstruction or deficiency exists to notify the president or other executive officer of said company, in writing, stating the nature of the obstruction or deficiency; and if said company do not, within ten days thereafter, comply with the provisions of this act, it shall be the duty of the said road commissioners or overseers to present to any justice of the peace residing in the same hundred with said road commissioners a certificate, under their hands, certifying to the facts of the case, whereupon it shall be the duty of said justice to name for referees five disinterested citizens of said county, not residing in the hundred wherein their services are required, to go upon and inspect the deficiencies complained of, and if they approve, to order the said road commissioners or overseers to proceed to remove said obstruction, or correct said deficiency, and to keep a correct account of the costs and expenses attending the same. The said bill of costs and expenses, upon the approval thereof by the said referees, duly certified, thereupon may be collected by the said road commissioners or overseers off of the said railroad company, or off of the contractor of the section wherein an obstruction, created during the building of new work, may exist, by distraint and sale of any property belonging to said railroad company or said contractor, the proceedings to be the same as in distraint for the collection of taxes.

If the company fail to comply Road Commissioners to notify President.

Of the proceedings against the company in case of a further failure.

SECTION 5. *Be it further enacted,* That the referees appointed in any case under this act shall be duly qualified, by oath or affirmation, in the same manner as commissioners for the laying out of public roads, and shall all be together upon the inspection of the premises, after which the acts of a majority shall be valid; said referees shall, in all cases, proceed with due dispatch, so that public inconvenience may be removed without unnecessary delay: *Provided,* that the necessary obstruction of a road during

Referees to be sworn.

Acts of majority.

Proviso.

the time actually needed for the erection of bridges, crossings, or other works, shall not be construed to come under the provisions of this act when a good and sufficient temporary road is provided, as contemplated in Section 3 of this act.

Passed at Dover, April 7, 1869.

CHAPTER 488.

RIVER FRONT RAILROAD COMPANY.

An Act to Incorporate the River Front Railroad Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring therein),* That Jesse Sharpe, James Bradford, E. Tatnall Warner, Francis Barry, Eli Garrett, John Morton Poole, Edwin A. Harvey, William G. Gibbons and Henry G. Banning be and they are hereby appointed commissioners to do and perform the things hereinafter mentioned, that is to say: they, or a majority of them, shall procure and cause to be opened, at such times and places and on such notice as

Commissioners appointed.

To open books.

they may deem proper, suitable books for subscription to the stock of "The River Front Railroad Company," and shall permit all persons of lawful age to subscribe in said books, in their own names, or in the name of any other person or company who may authorize the same, for any number of shares in said stock. The capital stock of said company shall not exceed sixty thousand dollars, and shall be divided into six hundred shares of one hundred dollars each: *Provided*, that the said company may, from time to time, by a vote of the stockholders, at a meeting called for that purpose, increase the capital stock to any amount not exceeding two hundred thousand dollars.

Who may subscribe.

Capital stock

Power to increase.

SECTION 2. *And be it further enacted as aforesaid*, That so soon as three hundred shares of capital stock in the said company shall have been subscribed as aforesaid, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name and title of "The River Front Railroad Company," and by that name shall have perpetual succession and be able to sue and be sued, plead and be impleaded in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy to them, their successors and assigns, real and personal estate of every kind whatsoever, and the same to grant, mortgage, sell, alien and dispose of, and to declare dividends of such portions of the property of the company as they may deem proper, also to have a common seal and power to renew and alter the same, and to make by-laws for the government of the said corporation not inconsistent with the constitution and laws of the United States or of this State, and generally to do all matters and things lawful to be done for the well ordering of the said company: *Provided*, That nothing herein contained shall confer any banking privilege on the said company.

When 300 shares are subscribed subscribers incorporated

Name.

Corporate powers.

Banking powers prohibited.

SECTION 3. That as soon as three hundred shares shall have been subscribed as aforesaid, the said commissioners, after giving at least ten days notice thereof in two or more newspapers published in this State, shall call a meeting of the said subscribers, in the City of Wilmington, to organize the said company by the appointment of officers as hereinafter mentioned.

Meeting of subscribers to organize company.

SECTION 4. That there shall be an annual meeting of stockholders on the second Monday in January in every year, in the City of Wilmington, for the purpose of electing directors and for the transaction of other business. And in all meetings of the stockholders regularly convened, those present may proceed to business and all questions shall be determined by a majority of the votes given. All elections by stockholders shall be by ballot and all votes shall be given in person or by proxy, and each share of stock shall entitle the owner to one vote. Special

Annual meetings of Stockholders.

When and where held.

Elections to be by ballot.

CONCERNING RAILROADS.

Special meetings.

meetings of stockholders may be called by the president and directors when they may be deemed expedient.

Election of Directors.

SECTION 5. That at the first meeting of the stockholders to be held under the call of the said commissioners, and at every annual meeting of the stockholders to be held thereafter as aforesaid, they shall elect seven directors, who shall all be stockholders, and a majority of whom shall be citizens of this State. The first election of directors shall be conducted by two of the said commissioners as the judges thereof, and all subsequent elections of said officers shall be conducted by two of the stockholders not in the board, to be appointed judges by the directors for the time being. Immediately after their election the directors shall proceed to choose one of their number to be president of their company and of the said board, and their term of office shall be until the next annual meeting of stockholders and until their successors shall be duly chosen. The directors shall also appoint a secretary and treasurer of the said company, who shall continue in office for the term aforesaid and until their successors shall be duly appointed, unless sooner removed by the directors. The treasurer shall on his appointment give bond with security for the faithful performance of his duties to the company. A majority of the whole number of directors shall constitute a quorum for the transaction of business, and in the absence of the president may appoint a chairman of the board *pro tempore*. Vacancies in the board of directors and in the office of president, secretary and treasurer, may be filled by the remaining directors for the unexpired terms.

President.

Secretary and Treasurer.

Treasurer to give bond.

Quorum.

Vacancies.

Meetings of Directors, where held.

SECTION 6. *And be it further enacted*, That the said president and directors shall hold their meetings in the City [of] Wilmington, and the said directors shall have the general management and control of the affairs and operations of the said company, and for that purpose shall have power to employ all persons by them deemed necessary, and to fix the compensation and wages of all persons so employed, and to take bond from any of such persons for the faithful performance of their duties or contracts, and to procure all materials and supplies, and to purchase and employ such steam engines, cars and other equipments for the road, and to make such contracts with individuals and other companies as they may consider expedient for the interests of the said company, and mortgage and grant leases of its property, estate and franchises, and bind the said company by their contracts and obligations under the seal of the corporation and the hand of the president. They shall also have power to make and prescribe by-laws for the government of the company, which shall not be amended without at least three weeks'

Powers of Directors.

notice thereof shall have been given at a previous meeting of the board.

SECTION 7. The president and directors shall procure certificates of the stock of the company, which shall be signed, sealed, registered, assigned, paid for and issued in the method prescribed by the by-laws, and every assignee of said stock shall be a stockholder and entitled to all rights incident thereto, and be subject to all installments, forfeitures and penalties of original subscribers. Certificates of stock.

SECTION 8. That all subscriptions to the said capital stock shall be paid to the said treasurer in such installments and at such times and places as the said directors shall appoint, by public notice, and in case of default in any subscriber to pay such installments for thirty days after the time appointed in said notice for the payment thereof, he shall pay, in addition to the installment, at the rate of two per centum per month for the delay of such payment, or the shares so held by him, with all previous installments paid thereon may be declared forfeited to the company at the option of the directors. All sums of money which may accrue to the company under this section may be sued for and recovered as debts of like amount are recoverable by the laws of this State: *Provided* that no stockholder who shall be for more than thirty days in arrears for any installment on shares of stock held by him shall be entitled to vote at any election whilst such installment remains unpaid. Payment of subscriptions to capital stock. Penalty for default. How recovered. Proviso.

SECTION 9. That the said president and directors shall, from time to time, make and declare from the nett profits of the said company such dividends as they may deem advisable, the times for which shall be fixed by the by-laws, and public notice thereof shall be given by them. And at each annual meeting of the stockholders it shall be the duty of the president and directors of the preceding year to submit a report, and exhibit to them a full and true statement of the affairs of the company. Dividends. Report of President and Directors.

SECTION 10. That the said company be and they are hereby authorized to survey, locate, operate and maintain a railway, with one or more tracks, for the carriage of passengers and freight for compensation, by steam or other power, as follows, that is to say: from a point on the Delaware River, not more than three miles north from the Christiana River, to a point on the line of the Philadelphia, Wilmington and Baltimore Railroad, and to connect or unite with the said railroad at a point thereon not more than three miles distant from the said initial point on the Delaware River, with the assent of the said the Philadelphia, Wilmington and Baltimore Railroad Company, and upon such terms Authorized to construct railroad. Where. May unite with P. W. & B. Railroad.

CONCERNING RAILROADS.

Agreement.

and conditions as shall be mutually agreed upon between the said companies, to be reduced to writing, and authenticated under their respective corporate seals. And for the purpose of surveying, locating and constructing the said railroad, the said company shall have full authority to enter upon and occupy any lands, tenements and hereditaments, and procure sand, gravel, wood, stone and other material therefrom and obtain title to the same, as is hereinafter provided.

May enter upon land for the purposes of road

Condemnation of lands for road.

SECTION 11. *And be it further enacted,* That whenever it shall be deemed by the directors necessary to enter upon and occupy any lands or tenements for the use of the said corporation, if the owner or owners of such lands or tenements be not known, or be under the age of twenty-one years, or if the directors and such owner or owners cannot agree upon the compensation to be made therefor, the Superior Court for New Castle county, in term time, or any judge of the same, in vacation, shall, upon application by the company, appoint five commissioners, (who shall be freeholders,) who shall go upon the premises, first giving five days' notice of the time and place of their meeting to the president of the company, and also to the owner or owners of the premises, if residing within the county, otherwise to the tenant, if any residing on the said premises. The commissioners, being first duly sworn or affirmed to perform their duties with fidelity, shall assess, fairly and impartially, the damages of such owner or owners to be sustained by reason of the premises being taken for the use of the company, taking into consideration all the advantages to be derived to the owner or owners by reason of the said railway, and shall certify their proceedings, with their assessment, under their hands and seals, or the hands and seals of a majority of them, to the company, whereupon the said company, upon recording the same in the office for recording deeds in and for New Castle county, and paying the owner or owners of the premises the damages assessed as aforesaid, or depositing the same to the credit of such owner or owners in the Farmers' Bank of the State of Delaware, at Wilmington, shall become entitled to hold, use, occupy and enjoy the said premises exclusively to it, its successors and assigns forever: *Provided,* that either party being dissatisfied with the damages so assessed, may, on application to the Prothonotary of New Castle county, within thirty days after such assessment shall have been recorded as aforesaid, sue out a writ of *ad quod damnum,* requiring the sheriff of said county, in the usual form, to inquire, by twelve impartial men of his bailiwick, under oath or affirmation, of the damages as aforesaid. The assessment of the jury, duly made and returned by the sheriff, shall be final. If increased damages

Commissioners to view the premises

Must be sworn.

Must certify their proceedings and assessment.

Recording thereof.

Company to have premises on paying or depositing the damages.

Proceedings on writ of ad quod damnum in cases of dissatisfaction.

are found by the jury, the said increase shall be paid or deposited by the company as aforesaid, and if the damages be reduced, the owner shall refund the amount diminished. The costs of the inquisition shall be paid by the unsuccessful party. The fee of a commissioner shall be one dollar and fifty cents per day, to be paid by the company, and if a juror, one dollar and fifty cents per day. The works of the company shall not be delayed by such application for a writ of *ad quod damnum*, but upon payment or deposit, as hereinbefore provided, of the damages awarded by the commissioners, the right and title of the company to enter upon, use and occupy the premises inquired of shall become vested and perfect.

Costs.

Said writ not to delay the works of the company.

SECTION 12. That it shall be the duty of the said company, when the said railroad shall intersect any farm, to provide and keep in repair a suitable passage across the railroad for the use of the said farm. And it shall be the duty of the said company, whenever the said railroad shall pass through any enclosed lands, to fence the same upon each side of the railroad, unless by agreement between the company and the owner or owners thereof the former shall be released from the duty of fencing aforesaid.

Crossings for use of farms on road.

Fencing.

SECTION 13. That if any person or persons shall wilfully damage or obstruct the said railroad or any part thereof, or any part of the works and property of the said company, they shall be liable to the company in a civil action for double the damages sustained, and shall moreover be guilty of a misdemeanor, and on indictment and conviction shall be fined not exceeding one thousand dollars at the discretion of the court.

Penalty for injury to works of the company.

SECTION 14. That if at any time an election of officers of the said company shall not be held pursuant to the provisions of this act, the corporation shall not for that cause be deemed dissolved, but it shall be lawful to hold such election at any time afterwards on giving ten days notice thereof in two newspapers published in this State, of the time and place of holding such election. And it shall be lawful for the Governor of this State, for the time being, to supply any vacancies which may occur among the commissioners appointed by this act.

Failure to hold elections not to dissolve corporation.

Governor to fill vacancies among the Commissioners.

SECTION 15. That this act shall be deemed and taken to be a public act, and may be pleaded and given in evidence as such in all courts of law and equity in this state, and that this charter shall be deemed and held to be perpetual or without limitation as to time, subject nevertheless to the power of revocation for the misuse or abuse of its privileges by the said company, which is hereby reserved to the Legislature.

Public act.

Charter perpetual.

Power of Revocation.

Passed at Dover, January 21, 1869.

CONCERNING RAILROADS.

CHAPTER 489.

SMYRNA STATION AND SMYRNA RAILROAD COMPANY.

Volume 12, 39, 115. Current Vol. 50.

An Act to amend "An Act to incorporate the Smyrna Station and Smyrna Railroad Company."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of each branch of the Legislature concurring therein),* That the act entitled, "An Act to incorporate the Smyrna Station and Smyrna Railroad Company," passed at Dover, February 7th, 1861, as amended March 5th, 1861, as amended February 7th, 1866, be and the same is hereby amended by striking out the word "dummy" wherever it occurs in said act: *Provided* that wood shall not be used as a fuel in running any engine employed by said railroad company.

Act amended by striking out the word "dummy."

Proviso.

Public act.

SECTION 2. *And be it further enacted,* That this act shall be deemed and taken to be a public act, and the act to which this is an amendment shall, in all future editions of the laws of this State, be published as hereby amended.

Future Publications.

Passed at Dover, January 26, 1869.

CHAPTER 490.

QUEENSTOWN AND HARRINGTON RAILROAD.

An Act to authorize the Queenstown and Harrington Railway Company to Construct their road from the Maryland State Line to Harrington, in the State of Delaware.

Incorporation.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (with the concurrence of two-thirds of each branch of the Legislature),* That the subscribers to the stock of the Queenstown and Har-

rington Railway Company, a corporation formed under an act of the Legislature of the State of Maryland, are hereby declared to be incorporated by the name, style and title of the Queenstown and Harrington Railway Company, and as such, with their successors and assigns by that name, shall have perpetual succession, and be capable, in law, of purchasing, taking, selling, leasing, mortgaging and conveying goods, chattels, lands and tenements, and hereditaments, and may sue and be sued, implead and be impleaded in all or any of the courts of this State, and may make, have, and use a common seal, and alter and renew the same at pleasure, and may ordain and establish by-laws and rules for the regulation of the business and property of said company not inconsistent with the laws of this State or the United States: *Provided*, that no banking powers, or any other privileges be exercised by said corporation except such as are necessary to the proper making and management of said railroad hereby authorized.

Name.

Corporate powers.

Proviso.

SECTION 2. The said corporation is hereby authorized and empowered to construct and maintain a railway, with double or single track, from some suitable point on the line between the State of Delaware and the State of Maryland, not farther south than the Wesleyan Chapel, on said State line, to some point adjacent to the Town of Harrington, wherever said company may deem it expedient to fix their station, and may connect the said road with any other railway track heretofore authorized by the laws of this State.

Construction of railroad authorized.

Where.

May connect with any other railway.

SECTION 3. The said roadway shall be sixty-six feet in width, and in case the said company shall not be able to agree with any person or persons through whose lands the said road shall run upon the amount of compensation for damages to which such owner or owners may become entitled, the company may apply, by petition, to the Superior Court of the county in which such land may be situated, which said court shall appoint three judicious and wholly disinterested persons to view the premises and assess the damages, allowing not less than the actual cash value per acre which said land bore at the date of incorporation. The said persons shall be sworn, and five days' notice given to the landowner, his, her or their representative, and in case there be minors interested, the court shall, upon such suggestion, appoint a guardian *ad litem*, if there be none other. The report of said viewers, filed in the said court, shall be final, unless exceptions be entered thereto within thirty days from filing; and when damages are found, the said company may either tender the amount to the said claimant, or pay the same into court, subject to the order of said court upon final hearing; and the said com-

Width of road.

Condemnation of lands for road.

Assessment of damages.

Viewers to be sworn.

Notice to land owners.

Report of viewers final unless exceptions entered within 30 days.

Company to have lands upon paying damages.

pany may proceed to occupy and use said lands for the purposes herein prescribed, and the right to the same shall be vested in said company upon the final order of the said court, and payment thereon, and assessments for materials taken, shall be conducted in like form and manner.

Crossings.

SECTION 4. The said company are hereby authorized to erect and maintain necessary bridges over any stream or pond of water which said road may cross, and may also cross any public or private roadway without obstructing travel upon the same. and when the said railroad shall intersect any farm, the said company shall provide and keep in repair a suitable passage across the said railroad for the use of said farm. It shall also be the duty of said company, whenever the said railroad shall pass through any enclosed land, to fence and keep in good repair the same on each side of the line of the said railroad, so that the said lands shall not be exposed and thrown open by reason of the said railroad passing through the same, unless by the agreement of the company and the owner or owners thereof the former shall be released from the duty of fencing as aforesaid. The said company are hereby authorized to mortgage their real and personal property in case they deem it necessary in the construction of their road.

Fencing.

Company may mortgage their property.

Power of Revocation.

SECTION 5. That the Legislature hereby reserves the power of revocation.

Passed at Dover, February 26, 1869.

CHAPTER 491.

THE DELAWARE AND CHESTER COUNTY RAILROAD.

Current Vol. 195.

An Act to amend the act entitled, "An Act to Incorporate the Delaware and Chester County Railroad Company," passed at Dover, February 5, 1867.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring):

Name changed.

SECTION 1. That the name of said corporation be changed

CONCERNING RAILROADS.

from "The Delaware and Chester County Railroad Company" to that of "The Wilmington and Western Railroad Company," and shall hereafter be so published in the title of said act and wherever the name is repeated throughout the several sections thereof.

SECTION 2. That Section 12 of said act be amended by striking out all between the word "beginning" in the third line, and the word "such" at the end of the twelfth line of said Section, and inserting in lieu thereof the following, to wit: "at or near the Delaware River within the limits of the City of Wilmington, and extending to the line of this State in a westerly direction, by such eligible route (passing through the limestone valley of Hockessin) as will be favorable for connecting with a railroad or railroads leading westward or north-westward in the State of Pennsylvania, together with such turnouts, switches, wharves or piers, and". Section 12 amended. Where the road shall be made.

SECTION 3. That Section 14 be amended by inserting next after the word "pass," in the 22d line, as follows: "unless more than one be necessary for obtaining access to all parts of the lands of said owner or owners." Section 14 amended. Crossings for benefit of land owners.

SECTION 4. That Section 19 be amended by inserting therein next after the word "necessary," at the end of the fourth line, the following, to wit: "and where the said railroad shall pass through improved lands the said company shall erect the said fences whenever practicable before commencing work upon the said lands, and shall be liable for damages resulting from neglect to fulfil the requirements of this Section, to be recovered as set forth in Section 14 of this act." Section 19 amended. Fencing.

SECTION 5. That Section 24 of said act be amended by inserting in the first line thereof, between the words "that" and "in," as follows, to wit: "it shall be lawful for the company hereby incorporated to enter into an agreement with any railroad company or corporation created by or existing under the laws of the State of Pennsylvania, for the purpose of authorizing and enabling the said Wilmington and Western Railroad Company to lease, use, operate or run such railroad: *Provided*, that the companies or corporations entering into such agreement form a continuous line of railroad and". Section 24 amended. Agreements with other companies.

SECTION 6. That Section 18 of said act be amended by inserting therein next after the word "same," at the end of the tenth line, the following words, to wit: "bearing any rate of interest deemed advisable by said company, not exceeding eight per cent." Section 18 amended. Rate of interest on money borrowed.

Passed at Dover, March 10, 1869.

CONCERNING RAILROADS.

CHAPTER 492.

GEORGETOWN AND GUMBOROUGH RAILROAD COMPANY.

An Act to Incorporate the Georgetown and Gumborough Railroad Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (with the concurrence of two-thirds of each branch of the Legislature),* That Clement C. Hearn, William E. Cannon, Ebenezer Gray, Isaac Wootten, Joseph Lewis, William H. Betts, Cornelius D. West, Nathaniel King, Joseph B. Cannon, William S. Phillips, William O. Short, William D. Records, Joseph Marvel, Robert M. Rodney and Aaron B. Marvel be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they, or a majority of them, shall procure and cause to be opened, at such times and places and on such notice as they may deem proper, suitable books for subscription to the stock of "The Georgetown and Gumborough Railroad Company," and they shall permit all persons of lawful age to subscribe in said books, in their own names, or in the name of any other person or company who may authorize the same, for any number of shares in said stock. The capital stock of said company shall not exceed four hundred thousand dollars, divided into sixteen thousand shares of twenty-five dollars each.

Commissioners appointed.

To open books.

Who can subscribe.

SECTION 2. *And be it further enacted as aforesaid,* That when and as soon as eight hundred shares of capital stock in said company shall be subscribed as aforesaid, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name and title of "The Georgetown and

Company incorporated.

Name.

CONCERNING RAILROADS.

Gumborough Railroad Company," and by the same name the subscribers shall have perpetual succession and be able to sue and be sued, plead and be impleaded in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors real and personal estate of every kind whatsoever, and the same to grant, mortgage, sell, alien and dispose of, and to declare dividends of such portions of the profits of the company as they may deem proper, also to make and have a common seal and the same to alter and renew at pleasure, and also to make and ordain by-laws and regulations for the government of the said corporation not inconsistent with the constitution and laws of the United States or of this State, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well being and ordering of the same: *Provided,* That nothing herein contained shall confer any banking privileges on the said company, or any other liberties, franchises or privileges but those which are properly incident to such a corporation.

Powers.

Banking powers not conferred.

SECTION 3. *And be it further enacted as aforesaid,* That as soon as eight hundred shares shall be subscribed as aforesaid, the said commissioners, after giving at least ten days notice thereof in two or more newspapers published in this State, shall call a meeting of the said subscribers, in Gumborough, to organize the said company by the choice and appointment of officers as hereinafter mentioned.

Meeting of subscribers to organize company.

SECTION 4. *And be it further enacted as aforesaid,* That there shall be an annual meeting of stockholders on the second Monday in January in every year, in the Village of Gumborough, for the purpose of electing directors and for the transacting of other business. In all meetings of the stockholders regularly convened, those present may proceed to business and all questions shall be determined by a majority of the votes given. All elections by stockholders shall be by ballot and all votes shall be given in person or by proxy, and each share of stock shall entitle the owner to one vote. Occasional meetings of the stockholders may be called, and at such places as the president and directors may deem expedient.

Annual meeting of Stockholders

When and where held.

All elections to be by ballot.

Occasional meetings.

SECTION 5. *And be it further enacted as aforesaid,* That at the first meeting of the stockholders to be held under the call of the said commissioners, and at every annual meeting of the stockholders to be held thereafter as aforesaid, they shall elect seven directors, a majority of whom shall be citizens of this State, and all of them stockholders in the said company. The first election of directors shall be conducted by two of the said commissioners as the judges thereof, and all subsequent elections of said officers

Directors.

Elections.

shall be conducted by two of the stockholders not in the board, to be appointed by the directors for the time being, as judges for that purpose. The directors, immediately after their election, shall proceed to choose one of their number to be the president of their company and of the said board; and their term of office shall be until the annual meeting of the stockholders succeeding their election, and until their successors shall be duly chosen. The directors shall also appoint, immediately after their election, a secretary and treasurer of the said company, who shall continue in office for the term as aforesaid and until their successors shall be duly appointed, unless sooner removed, for a sufficient cause, by the directors. They shall require of the treasurer, on his appointment, a bond, with sufficient security, for the proper performance of the duties of his office and the faithful discharge of the trust reposed in him by the said company. A majority of the whole number of directors shall constitute a quorum for the transacting of business, and in the absence of the president may appoint a chairman of the board *pro tempore*. Vacancies in the board of directors, and in the offices of president, secretary and treasurer, may be filled by the remaining directors, to continue as aforesaid.

President.
Term.
Secretary and Treasurer.
Term.
Bond of Treasurer.
Quorum.
Vacancies.

Meetings, where held.

SECTION 6. *And be it further enacted as aforesaid*, That the said president and directors shall hold their meetings in the Village of Gumborough, and in such other places as they may deem expedient, on the line of the said road; and the said directors shall have the general direction, conduct and management of the property, business and operations of the said company, and for that purpose shall have power to appoint, engage and employ all such officers, and agents, engineers, contractors, workmen and laborers, as they shall deem necessary, and to fix salaries of all officers in the corporation, and the compensation and wages of all persons employed by them as aforesaid, and to take bond from them or any of them, with security, for the faithful performance of their duties or contracts; to procure such materials, erect such structures and buildings, and to purchase or employ such engines, cars and other equipments and supplies for the road, and for that purpose to make and enter into such contracts and agreements with other persons and companies as they may consider expedient and proper and best adapted to promote the objects and subserve the interest of the said company; they shall have full powers to do all acts that may be necessary to effect the purposes for which the said company is hereby incorporated, and to this end raise the capital stock and funds of the said company, and to bind by their contracts, under the seal of their corporation and the hand of the president, all the property and estate of the said

Powers of Directors.

CONCERNING RAILROADS.

company. They shall also have the power to make and prescribe the by-laws and regulations for the government of the company; to provide certificates of stock under the seal of the company and the signature of the president, and countersigned by the secretary, for all the shares subscribed; and to prescribe the mode of assigning and transferring the same, and generally to do all such other matters and things as by this act and the by-laws and regulations of the company they shall be authorized to do. By-laws. Certificates of stock. Assignment of stock.

SECTION 7. *And be it further enacted as aforesaid,* That it shall be the duty of the president and directors to procure certificates of stock for all the shares subscribed in said company, and cause the same, signed, sealed, and countersigned, as aforesaid, to be issued to the subscribers therefor, which shall be assignable, at the will of the holder, in the method prescribed in the by-laws of the company, and the assignee of any such certificate, so transferred, shall be a stockholder in said company, and shall be entitled to all the rights and emoluments incident thereto, and be subject to all the installments, forfeitures and penalties, due or to become due thereon, as the original subscriber would have been. Certificates of stock. Assignable. Rights of Assignee.

SECTION 8. *And be it further enacted as aforesaid,* That the subscribers to the said capital stock shall pay to the treasurer of the said company the installments on each share by them subscribed, as the same shall be respectively called in, pursuant to the public notice and call of the directors; and if any subscriber shall omit for thirty days after any such call to pay any such installment at the time and place appointed in said notice, he shall pay, in addition to the installment, at the rate of two per cent. a month for the delay of such payment, or the shares so held by him, with all the previous installments paid thereon, may be declared forfeited to the company at the option of the directors. All sums of money which may accrue to the company under this section may be sued for and recovered as debts of a like amount are recoverable by the laws of this State: *Provided,* that no stockholder shall be entitled to vote at any election, or in any meeting of the said company, on whose shares any installments shall have been due and payable more than thirty days previous to such election or meeting, and are unpaid at that time. Installments. Failure to pay. Forfeiture. How recovered. Proviso.

SECTION 9. *And be it further enacted as aforesaid,* That the said president and directors shall, from time to time, make and declare dividends of the nett profits of the business of the company, or of such portions of such profits as they may deem advisable, the times for which shall be fixed by the by-laws, and public notice thereof shall be given by them; and at each annual meeting of the stockholders it shall be the duty of the president and directors of the preceding year to submit, to report, and to Dividends. When declared. Notice.

CONCERNING RAILROADS.

Statement of affairs of company.

exhibit to them a full and correct statement of the proceedings and affairs of the company for that year.

Company authorized to construct railroad.

SECTION 10. *And be it further enacted as aforesaid,* That the said company be and they are hereby authorized to survey, locate and construct a railroad, with one or more tracks, from any point on the Junction and Breakwater Railroad, on the east side of Georgetown, to a point on the line dividing the State of Delaware and Maryland, near Bethel Methodist E. Church, and to connect or unite the same with the Junction and Breakwater Railroad, with the assent of the Junction and Breakwater Railroad Company, upon such terms and conditions as shall be agreed upon between the two companies, to be reduced to writing, and authenticated under the seals of the said companies, and also to unite this said railroad with any other railroads which are now already or may hereafter be constructed in this State or in the State of Maryland, upon such terms and conditions as may be agreed upon between the companies uniting or connecting, to be authenticated in like manner.

Where.

May connect with the Junction and Breakwater railroad.

Refusal of owner to allow land and materials to be taken.

SECTION 11. *And be it further enacted as aforesaid,* That whenever any land, earth, sand, gravel, or other materials, necessary to be taken and used in the construction of the said railroad, cannot be procured or purchased of the owner thereof by agreement between him and the company, the latter may apply to the Superior Court of Sussex county or to any judge thereof in vacation, first giving the other party at least five days notice, in writing, of the intended application, if within the State, and the said court or judge shall appoint five judicious and impartial freeholders to view the premises and assess the damages which the owner or owners will sustain by reason of the said railroad passing through it in taking and using the same. The said freeholders shall be sworn or affirmed before some judge, justice of the peace, or notary public, before entering upon the premises, faithfully and impartially to perform the duty assigned them, and they shall give ten days written notice to the owner or owners of the premises, if within the State, and the same to the president of the company, of the time of their meeting for the discharge of their duty, which shall be upon the premises, and they shall make report in writing, under their hands, or the hands of a majority of them, to both parties; but if either party be dissatisfied with the damages so assessed, such party may, on application to the Prothonotary of the Superior Court in and for Sussex county, within thirty days after such assessment, sue out a writ of *ad quod damnum,* requiring the sheriff, in the usual form, to inquire of twelve impartial men of his bailiwick, of the damages aforesaid, and their report shall be final; whereupon the

Application to Superior Court or Judge.

Notice.

Freeholders to assess damages.

Sworn.

Notice of freeholders.

Report.

Ad quod damnum.

Final.

damages so assessed being paid by the company to the party entitled, or into court for his or her use, whether they be under any disability or in or out of the State, the title of the land and premises described and condemned in said report, for the purposes aforesaid, shall be absolutely vested in the said company, their successors and assigns. The fees of the freeholders and the Prothonotary in all such proceedings shall be fixed by the court, and in all cases shall be paid by the company.

Upon payment of damages, title of company absolute.

Fees.

Paid by whom.

SECTION 12. *And be it further enacted as aforesaid,* That it shall be the duty of the said company to construct and keep in repair, good and sufficient passages across such railroad, where any public road shall cross the same, so that carriages, horses, persons and cattle shall not be obstructed in crossing said railroad; it shall likewise be the duty of the said company, when the said railroad shall intersect any farm, to provide and keep in repair a suitable passage across the said railroad for the use of the said farm; it shall also be the duty of the said railroad company, whenever the said railroad shall pass through any enclosed lands, to fence and keep in good repair the same on each side of the line of the said railroad, so that the said lands shall not be exposed or thrown open by reason of said railroad passing through the same, unless by special agreement of the company and the owner or owners thereof.

Crossings.

Fencing.

SECTION 13. *And be it further enacted as aforesaid,* That if any person or persons shall wilfully and intentionally damage or obstruct the said railroad, or any part thereof, or any part of the works and property of the said company, they shall be liable to the company, in a civil action, for double the damages sustained; and shall, moreover, be guilty of [a] misdemeanor, and on indictment and conviction shall be fined not exceeding one thousand dollars, at the discretion of the court.

Damages or obstructions.

Civil action for

Indictment for.

Fine.

SECTION 14. *And be it further enacted as aforesaid,* That if, at any time, an election of officers of the said company shall not be held and had pursuant to the provisions and appointment of this act, the corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful to hold and have such election, at any time afterwards, on giving ten days notice thereof in two newspapers published in this State, of the time and place of holding such election; and it shall be lawful for the Governor of the State, for the time being, to supply any vacancies which may occur among the commissioners appointed by this act.

Non-election of officers.

Corporation not dissolved.

Notice of election.

Vacancies supplied by Governor.

SECTION 15. *And be it further enacted as aforesaid,* That the said company shall pay semi-annually, into the treasury of the State, a tax at the rate of one-half of one per cent. per annum on the capital stock of the company actually paid in, whenever the

Tax on Capital Stock.

When.

business of the company shall, over and above its liabilities or expenses, yield to the stockholders a profit or dividend on such stock equal to the rate of six per centum per annum.

Public act.

SECTION 16. *And be it further enacted as aforesaid,* That this act shall be deemed and taken to be a public act, and may be pleaded and given in evidence as such in all courts of law and equity in this State, and that this charter shall be deemed and held to be perpetual, or without limitation as to the time, subject nevertheless to the power of revocation, for the misuse or abuse of its privileges by the said company, which is hereby reserved to the Legislature.

Perpetual.

Revocation.

Legislature may regulate fare, &c.

SECTION 17. That the Legislature of this State, at any time hereafter, may fix, regulate and determine the rate of fare for the carrying of passengers, and the rate of freight to be charged on produce, goods or property of every description carried on the railroad of the company.

Passed at Dover, March 11, 1869.

CHAPTER 493.

FREDERICA RAILROAD COMPANY.

An Act authorizing the Directors of the Frederica Railroad Company to Appropriate Certain Moneys.

Directors authorized to expend certain moneys in their hands.

How.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Directors of the Frederica Railroad Company be and they are hereby authorized and empowered to expend the sum of two thousand dollars out of money which has come into their hands under the provisions of an act of the General Assembly entitled, "An Act for the encouragement of internal improvements in the State of Delaware," passed January 26, 1859, in enlarging and repairing the Town Hall and school-rooms therein in the said Town of Frederica, to be expended under the management and direction of said directors of said railroad company; and the

said directors of the said Frederica Railroad Company are hereby further authorized and empowered to appropriate such portion of the residue of the money by them received under the provisions of the act aforesaid as they may deem proper to the improvement of Murderkill Creek, to be expended under the management and direction of the Murderkill Navigation Company.

SECTION 2. *And be it enacted as aforesaid,* That this act shall be deemed and taken to be a public act. Public act.

Passed at Dover, March 15, 1869.

CHAPTER 494.

DELAWARE CENTRAL RAILROAD COMPANY.

12 Volume, 526.
Current Vol. 188, 190.

An additional Supplement to the act entitled, "An Act to incorporate 'The Delaware Central Railroad Company,'" passed at Dover, January 24, 1865. 12 Vol. 526. Current Vol. 188, 190.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,)* That "The Delaware Central Railroad Company" be and they are hereby authorized and empowered to extend their railroad to the dividing line between the State of Delaware and the State of Maryland, and may unite their said railroad with any other railroad company or companies that may now or hereafter be incorporated by the State of Maryland, upon such terms and conditions as may be agreed upon between the said "The Delaware Central Railroad Company" and the company or companies with which said union may be made, which said terms and conditions shall be in writing, authenticated by the common seals of said companies, and that all the grants, powers, liberties, privileges, franchises and immunities granted and conferred by the act to

Extension of road authorized.

May unite with other roads.

Terms.

which this is an additional supplement, be and the same are hereby granted and conferred to and upon the said "The Delaware Central Railroad Company," for the purpose of making, completing and effecting the extension herein and hereby authorized.

May enter upon lands.

SECTION 2. *And be it further enacted as aforesaid,* That for the purpose of carrying into effect the extension hereby contemplated, the said "The Delaware Central Railroad Company" shall have full power to enter in and upon and use and occupy the lands of any individual or corporation, and may lay down the track of their railroad across the same, and across the track of the Maryland and Delaware Railroad, or any other railroad that may now or hereafter be constructed in this State, and which it may be necessary to cross for the purpose aforesaid, the said "The Delaware Central Railroad Company" first paying to the individual or corporation, or depositing in the Farmers' Bank of the State of Delaware to his or their credit, the damages which may be assessed according to the provisions of the act to which this is an additional supplement, and may cross any public or private road: *Provided* that the said "The Delaware Central Railroad Company," in crossing the track of any other railroad, shall construct their crossing in such a manner that the same shall not impede or obstruct the passage of any car or locomotive upon the road so crossed.

May cross the track of Md. and Del. R. R.

Terms of which said entry, &c. may be made

Right to cross roads.

Acceptance of act.

SECTION 3. *And be it further enacted as aforesaid,* That this act shall be accepted by a majority of the stockholders in the said "The Delaware Central Railroad Company," at a meeting to be therefor called by the directors of said company within six months from the passage hereof, or the same shall be null and void; such acceptance, if the act shall be accepted, shall be certified under the hands of the president and the secretary and the seal of the corporation, to the Secretary of State of this State, who shall make an entry thereof upon the Executive Register, and shall also file such certificate of acceptance in his office.

Certificate thereof.

Passed at Dover, March 16, 1869.

CONCERNING RAILROADS.

CHAPTER 495.

DELAWARE AND PENNSYLVANIA RAILROAD COMPANY.

A Supplement to an act entitled. "An Act to incorporate the Delaware and Pennsylvania Railroad Company." 11 Vol. 458.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (with the concurrence of two-thirds of each branch of the Legislature),

SECTION 1. That the president and directors of the Delaware and Pennsylvania Railroad Company are hereby authorized and empowered to form a union with such companies as are or may hereafter be incorporated in the States of Pennsylvania and Maryland, respectively, for the purpose of constructing railroads in the said States, or either of them, to unite with the railroad authorized by the act to which this is a supplement, so that the capital stock of said companies, respectively, shall constitute a common stock; and the respective companies shall constitute one body politic and corporate by the name and style of the Delaware and Pennsylvania Railroad Company, and be entitled to all the rights, privileges and immunities which each and all of them may possess, have and enjoy at the time of such union under and by virtue of their respective charters: *Provided*, that the number of the directors of the said company, created by said union as aforesaid, shall not be less than nine, nor more than nineteen, two-thirds of whom shall always be residents of the States [of] Delaware and Pennsylvania, and all of them shall be stockholders.

Authorized to form union with other companies.

Incorporation.

Name.

Powers.

Number of Directors.

Qualifications.

SECTION 2. That the company created by the act to which this is a supplement, and the united company which may be formed under this act, respectively, shall have power from time to time to contract with any person or persons, company or companies, for the transportation of passengers and freight over the line of the road or roads authorized by said acts respectively.

Contracts for transportation of passengers and freight.

SECTION 3. That the company created by said act to which this is a supplement, shall have power from time to time to borrow money for the purposes of said company, not exceeding, in the aggregate, the sum of one million of dollars, and that the united company which may be formed under this act shall have power

Original company authorized to borrow money.

Limit.

United company authorized to borrow money.

from time to time to borrow money for the purposes of said united company, not exceeding, in the aggregate, the sum of two millions of dollars.

Public act.

Charter perpetual.

Revocation.

SECTION 4. That this act is hereby declared to be a public act, and the powers and privileges hereby granted shall be perpetual, subject, nevertheless, to the power hereby reserved to the Legislature to revoke said powers and privileges for misuse or abuse thereof.

Passed at Dover, March 30, 1869.

CHAPTER 496.

DELAWARE AND CHESAPEAKE RAILROAD COMPANY.

CONCERNING RAILROADS.

An Act to incorporate the Delaware and Chesapeake Railroad Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring,)* That Joseph Cleaver, Gassaway Watkins, Richard W. Cochran, William N. Hamilton, Columbus Watkins, Thomas D. Dilworth, John C. Corbit, Joshua B. Fennimore, Seirac F. Shallcross, William Polk, Edwin R. Cochran, Darrah Cleaver and Charles Beasten be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they, or a majority of them, shall, on or before the first Monday in January next, or at such other time as the commissioners may deem expedient, prior to the first day of January, A. D. 1872, procure a sufficient number of suitable books, which shall be opened at such time or times, place or places as they shall think proper, in which the following entry shall be made: "We, whose names are hereunto subscribed, do promise to pay to the President and Directors of the Delaware and Chesapeake Railroad Company the sum of twenty-five dollars for every share of stock set opposite to our respective names in such manner and proportions and at such times as shall be determined by the president and directors of the said company in pursuance of an act of the General Assembly of the State of Delaware entitled, 'An Act to incorporate the Delaware and Chesapeake Railroad Company.' Witness our hands this —— day of ——— in the year of our Lord one thousand eight hundred and ——." And after giving such notice as to them shall seem proper, they shall permit all persons of lawful age, who shall offer to subscribe in the said books in their own names, or in the name of any other person or company who shall authorize the same, for any number of shares in the said stock.

Commissioners.

When books shall be opened.

Entry to be therein.

Notice.

Who may subscribe.

SECTION 2. *And be it further enacted by the authority aforesaid,* That when and as soon as one thousand shares shall be subscribed, the subscribers, their successors and assigns, shall be and they are hereby declared to be incorporated by the name, style and title of "The Delaware and Chesapeake Railroad Company," and by the same name the subscribers shall have perpetual succession, and be able to sue and be sued, plead and be impleaded in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors lands, tenements and hereditaments, goods, chattels, and all estate, real, personal and mixed, of what kind or quality soever, and the same from time to time to sell, mortgage, grant, alien or dispose of, and to make dividends of such portion of the profits as they

Incorporation.

Name.

Powers.

CONCERNING RAILROADS.

may deem proper, and also to make and have a common seal and the same to alter or renew at pleasure, and also to ordain, establish and enforce such by-laws and regulations as shall be deemed necessary and convenient for the government of the said corporation, not being repugnant to the constitution and laws of this State and of the United States, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well being and ordering of the same: *Provided*, that nothing herein contained shall be considered as in any way giving to the said corporation any banking privileges whatsoever, or any other liberties, privileges or franchises but such as may be necessary or incident to the making and proper management of the said railroad.

First meeting.

SECTION 3. *And be it further enacted*, That the commissioners aforesaid, as soon as conveniently may be, after one thousand shares shall be subscribed as aforesaid, shall give notice in two of the Wilmington newspapers, and in such other newspapers as they shall deem proper, at least twenty days, of the time for the subscribers to meet in Odessa in order to organize the said company and to choose, by a majority of votes of the said subscribers by ballot, to be given in person or by proxy, nine directors, a majority of whom shall be residents of this State, a treasurer, not being a director, and such other officers as shall be deemed necessary. The directors shall elect a president from their number, and the president and directors aforesaid, being first sworn or affirmed well and faithfully to discharge the trust reposed in them, shall conduct the business of the said company until the second Monday in January, in the year of our Lord one thousand eight hundred and seventy-one, and until like officers shall be chosen, and may make such by-laws, rules and regulations as are not repugnant to the constitution and laws of this State and of the United States, and that may be necessary to the well governing the affairs of the company.

Directors.

Treasurer and other officers to be chosen.

President, how chosen.

Officers to be sworn.

Official term.

Powers.

Annual meeting of stockholders.

SECTION 4. *And be it further enacted*, That the stockholders shall meet on the second Monday in January, A. D. one thousand eight hundred and seventy-one, and in every year thereafter, at the town of Odessa, of which notice shall be given, at least twenty days, by the secretary in the newspapers before mentioned, and choose by a majority of votes present their officers for the ensuing year, as mentioned in the third section of this act, who shall continue in office for one year and until others are chosen, and at such other times as they may be summoned by the directors, in such manner and form as shall be prescribed by the by-laws, at which annual or special meetings they shall have full power and authority to make, alter, or repeal, by a majority

Notice.

Elections.

Powers of stockholders at annual meetings.

of votes, in manner aforesaid, all such by-laws, rules and regulations as aforesaid, and to do and perform every other corporate act; and the number of votes to which each stockholder shall be entitled shall be according to the number of shares he shall hold, each share entitling him to one vote, but no share shall confer a right of suffrage which shall not have been held three calendar months prior to the day of election, nor unless it be holden by the person in whose name it appears, absolutely and *bona fide* in his own right, or right of his wife, or of his or her sole use and benefit, or as executor or administrator, trustee or guardian, or in the right and for the use and benefit of some copartnership, corporation or society of which he or she may be a member, and not in trust for and to the use and benefit of any other person, and in all voting by proxy the attorney shall be legally constituted under the hand and seal of the party, and the authority authenticated by the signatures of two subscribing witnesses to its execution.

Each share to entitle holder to one vote. Exceptions.

Voting by proxy.

SECTION 5. *And be it further enacted,* That the election of officers provided for in the preceding section shall be conducted in the following manner, that is to say: the directors for the time being shall appoint two of the stockholders, not being directors, to be judges of the said election and to conduct the same, after having severally taken and subscribed an oath or affirmation before a judge or justice of the peace well and truly and according to law to conduct said election, and the said judges shall decide upon the qualifications of the voters, and when the election is closed shall count the votes and declare who has been elected, and if it shall at any time happen that an election of president, directors, treasurer or other officers shall not be made, the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of president, directors, treasurer, or other officers on the same day or any day thereafter, by giving at least ten days notice, signed by the president or secretary, in the newspapers before mentioned, of the time and place of holding said elections, and the president, directors and other officers of the preceding year shall in that case continue to act and be invested with all the powers belonging to their respective situations until another election shall take place. In case of the death, resignation or removal from the State of any president, director, or other officer, his place shall be filled by the board of directors until the next annual election: *Provided,* the removal of a director from this State may not operate to vacate his place should there be a majority still residing in the State. The president and directors shall always be sworn or affirmed well and faithfully to discharge the trust reposed in them.

Manner of conducting elections for officers.

Judges.

Oath.

Duties.

Failure to hold elections not to dissolve corporation.

May proceed to call election.

Vacancies.

Proviso.

CONCERNING RAILROADS.

Directors to hold meetings in Odessa.

Quorum.

Secretary.

Powers of Directors.

SECTION 6. *And be it further enacted,* That the said president and directors shall hold their meetings in the Town of Odessa, or such other place as the directors shall deem expedient, and when met, six shall be a quorum, who, in absence of the president, may choose a chairman; and the said directors shall, annually, appoint a secretary, not being a director, who shall keep minutes of their transactions fairly entered in a book, and a quorum of the said directors being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the money due on their respective shares, to draw orders on the treasurer for the same, which shall be signed by the president, or, in his absence, by a majority of the directors present, and countersigned by the secretary, and generally to do all such other acts, matters and things as by this act and by the by-laws and regulations of the company they are authorized to do.

Certificates of stock.

To whom delivered.

Stock transferable.

How.

Rights of Assignee.

SECTION 7. *And be it further enacted,* That the president and directors first chosen shall procure certificates or evidence of stock for all the shares of said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said company, to each person for all the shares by him subscribed and held, which certificate or evidence of stock shall be transferable at his pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, each of whom shall keep a book for that purpose, (subject, however, to all payments due or to become due thereon,) and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the transfer of stock, shall be a member of the said corporation, and for every certificate assigned to him as aforesaid shall be entitled to such share or shares of the capital stock represented by said certificate and to all estates and emoluments of the company incident to such share or shares, and to vote as aforesaid at the meetings thereof, and subject to all penalties and forfeitures, and to being sued for all the balance and penalty due or to become due on such share or shares as the original subscriber would have been.

Penalty for refusing to pay call within thirty days.

SECTION 8. *And be it further enacted,* That if, after thirty days notice in the public papers aforesaid of the time and place appointed for the payment of any proportion or installment of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or installment at the

place appointed for the space of thirty days after the time so appointed, every such stockholder, or his or her assignee, shall, in addition to the installment so called for, pay at the rate of two per cent. per month for the delay of such payment; and if the same and the additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sum before paid in part, and on account of such shares, the same shall be forfeited to the said company and be sold to any person or persons willing to purchase for such price as can be obtained for the same, or in default of payment by any stockholder of any such installment as aforesaid, the president and directors, at their election, shall sue and recover the same before any justice of the peace, or in any court having competent jurisdiction of the same, together with the penalty aforesaid: *Provided* that no stockholder, whether original subscriber or assignee, shall be entitled to vote at general or special meetings of the said company on whose share or shares any installment or arrearages may be due and payable more than thirty days previously to the said election or meeting.

President and Directors may bring suit for amount of calls and penalty.

No stockholder entitled to vote who has not paid his calls within thirty days.

SECTION 9. *And be it further enacted,* That the president and directors of the said company shall demand and require of and from the said treasurer, and all and every other the officers and other persons by them employed, bond in sufficient penalties and with such sureties as they shall by their by-laws, rules and regulations require, for the faithful performance of the several duties and trusts to them or any of them respectively committed.

Official bonds.

SECTION 10. *And be it further enacted,* That dividends of so much of the profits of the company as shall appear advisable to the directors shall be declared at least twice a year in every year, and paid to the stockholders on demand at any time after the expiration of ten days therefrom, but they shall, in no case, exceed the amount of the net profits actually acquired by the company, so that the capital stock shall never be thereby impaired. If the said directors shall make any dividends which shall impair the capital stock of said company, the directors consenting thereto shall be liable in their individual capacities to said company for the amount of the stock so divided; and each director present, when such dividend shall be made, shall be adjudged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders at the declaring of such dividend.

Dividends.

Not to exceed the nett profits of the company.

Individual liability of Directors declaring dividends exceeding profits.

SECTION 11. *And be it further enacted,* That at each annual meeting of the stockholders the directors of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for each year, and that special meetings

Annual statement of the affairs of Company.

Special meetings.

of the stockholders may be called by order of the directors or by stockholders holding one-fourth in amount of the capital stock on like notice as that required for annual meetings, specifying, moreover, the object of the meeting, but no business shall be transacted at such special meeting, unless a majority, in value, of the stockholders, shall attend in person or by proxy.

Notice.

Construction of railroad.

Where.

SECTION 12. *And be it further enacted,* That the said company be and they are hereby authorized to locate and construct a railroad to commence at a point on the Delaware Bay or River, at or near Port Penn, in New Castle county, and State of Delaware, to run through the northern limits of the Village of Odessa, in the County and State aforesaid; thence to a point at or near Middletown, Delaware, and to terminate at the Maryland line at a point near the Village of Warwick, Cecil county, and State of Maryland, and for that purpose to enter upon any lands necessary for locating, laying out, or making the same, or to procure sand, gravel, earth or wood for such use, and to obtain title or right to the same, as hereinafter provided. And the said company may lay down the track of their railroad across the Delaware Railroad or any other railroad that may now or hereafter be constructed in this State, and which it may be necessary to cross for the purposes aforesaid: *Provided,* that in crossing the track of any other railroad, they shall construct their crossing in such a manner that the same shall not impede or obstruct the passage of any car or locomotive upon the road or roads so crossed; *and provided further,* that the corporation whose track is thus crossed may claim and obtain damages according to the provisions of this act.

May enter on lands.

Right to cross Delaware railroad, &c.

Crossing not to obstruct passage on Del. R. R.

Damages.

Condemnation of lands

SECTION 13. *And be it further enacted,* That whenever it shall be necessary for the said company to enter in and upon and occupy for the purpose of making said railroad and procuring suitable material therefor, any lands upon which the same may be located, if the owner or owners of said land shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for any injury or supposed injury that may be done to said land by such entry and occupation, the Superior Court of New Castle county, in term time, or any judge in vacation, upon application, shall appoint five judicious commissioners, and the said commissioners shall, on being notified thereof, go upon the said lands and assess the damage of such owner or owners, on oath or affirmation, fairly and impartially, taking into consideration all the benefits to be derived from or in consequence of the said railroad to the said owner or owners, and the said commissioners shall certify their finding and award to both parties; whereupon the said company,

Commissioners.

Oath.

Commissioners to certify award to both parties.

on paying the damages so assessed, shall become entitled to have, use and enjoy the said lands, for the purposes by them required, forever. And in case any owner or owners of any lands necessary for the purposes of said company shall be a minor, or non-resident, or for any cause incapable of receiving, or unwilling or neglecting to receive said damages, or to call on the said company for the same, the said company may deposit the amount of the said damages to the credit of such owner or owners in the New Castle County National Bank, at Odessa, subject to his, her, or their order; whereupon the said company shall be entitled to have, use, and enjoy the said lands and promises required for the purposes of said company, for or on account of which damages shall have been assessed. And in the case of the death of any such commissioners the Governor shall appoint another or others to supply the vacancy. The expenses of the assessment of said damages shall always be paid by the said company.

Owners under disability, or refusing to accept damages, company may deposit them in the bank.

Whereupon Company to have title.

Vacancies.

Expenses to be paid by company.

SECTION 14. *And be it further enacted,* That whenever it shall be necessary or expedient for the said company to enter upon or occupy any portion of the marsh, or shore, the property whereof is in the State, it shall be lawful for them to enter upon the same and to hold, use, occupy and enjoy so much thereof as shall be necessary and proper for the use and benefit of said company, and thereon to make and construct such piers, wharves, docks, roads, houses and other needful buildings, structures and improvements as may be conducive to the interests and objects of the said company.

May enter on marsh or shore belonging to State and make use of same.

SECTION 15. *And be it further enacted,* That it shall be the duty of said company to construct and keep in repair good and sufficient passages across such railroad where any public road shall cross or intersect the same, so that carriages, horses, persons and cattle shall not be obstructed in crossing said railroad; it shall likewise be the duty of the said company, when the said railroad shall intersect any farm, to provide and keep in repair a suitable passage across the railroad for the use of said farm; it shall also be the duty of the said company, whenever the said railroad shall pass through any enclosed lands, to fence the same on each side of the said railroad, unless by agreement between the company and the owner or owners thereof the former shall be released from the duty of fencing as aforesaid.

Crossings.

Fencing.

SECTION 16. *And be it further enacted,* That on the completion of the said railroad, or any section thereof, it shall and may be lawful for the said company to demand and receive such sum or sums of money for tolls, freight and passage of persons and property as they shall from time to time think reasonable and proper.

Right to receive tolls, &c.

CONCERNING RAILROADS.

Penalty for injury to works of company.

SECTION 17. *And be it further enacted,* That if any person or persons shall wilfully and knowingly break, injure or destroy the railroad or any part thereof to be erected by the said company in pursuance of this act, or shall in any manner obstruct the free passage along the said railroad, he, she or they shall forfeit and pay to the said company three times the actual damages so sustained, to be sued for and recovered with costs of suit before any justice of the peace or in any court having cognizance thereof by action of debt or on the case in the name and for the use of said company.

May unite with other companies.

SECTION 18. *And be it further enacted,* That the president and directors of the said company are hereby authorized and empowered to form a union with any company which is or may be incorporated in the State of Maryland for the purpose of constructing a railroad in said State to unite with the railroad contemplated in this act so that the capital stock of the said companies respectively shall constitute a common stock and the respective companies shall constitute one company and be entitled to all the rights, privileges and immunities which each and all of them possess, have and enjoy under and by virtue of their respective charters, or this company may contract with any such company on any other terms for the conveyance of passengers and any articles whatsoever, or with any individuals whatsoever, provided such contract be not prohibited by the laws of Maryland; and they shall have the same powers to unite with any railroad in the State of Delaware.

Effects of union.

Proviso.

Capital stock

SECTION 19. *And be it further enacted,* That the capital stock of the said corporation shall not exceed the sum of three hundred thousand dollars, which shall be divided into shares of twenty-five dollars each. The said company shall have power, from time to time, to borrow money for the uses and purposes of the corporation, and to execute mortgages on all their estate, real and personal, and to issue bonds to secure the payment of the same: *Provided,* That the amount so borrowed shall not exceed in the aggregate the sum of three hundred thousand dollars.

The company may borrow money.

Amount limited.

Company may hold real estate.

SECTION 20. *And be it further enacted,* That the said company shall have full power to purchase and hold all real estate necessary for the purposes of the said railroad or any of their works, to buy and build wharves, piers, houses, depots and shops for corporate purposes, to purchase and hold steamboats, to ply in connection with the said road to any place or places whatsoever, and to contract with the owner or owners of any steamboat and any other railroad company for the transportation and passage to and from the said road, and when the final survey of any part

Steamboats.

of said road shall be made by the company's engineer, such survey shall be recorded in the Recorder's office of the County of New Castle, and the record thereof shall be evidence of the route and limit of said road. Final survey to be recorded. Evidence.

SECTION 21. *And be it further enacted,* That this act shall be a public act, and the power to revoke this charter for the abuse or misuse of the privileges hereby granted, upon the lawful conviction thereof, and to alter or amend this act, is hereby reserved to the Legislature. Public act. Revocation.

SECTION 22. *And be it further enacted,* That the Governor shall fill any vacancy occurring by the death, resignation or otherwise of the commissioners named in the first section of this act. Appointment of commissioners in case of vacancies.

SECTION 23. *And be it further enacted,* That the said Chesapeake and Delaware Railroad Company shall not "construct any railway or road to be used or traveled by locomotive engines or engines propelled by steam within New Castle county, between the waters of Appoquinimink Creek and those of the Christiana River, or within a distance from the New Castle and Frenchtown Railroad on each side thereof as great as the mouth of the said Appoquinimink Creek and of said Christiana River is from the said railroad at the town of New Castle," until after the first day of March, A. D. one thousand eight hundred and seventy-two. Company not to construct road within certain limits. Until what time.

Passed at Dover, March 30, 1869.

CHAPTER 497.

MARYLAND AND DELAWARE RAILROAD.

11 Volume, 373.
Preamble.
SEC. 1. Assent of State to provisions of first mortgage.
SEC. 1. Not to impair control of this State over road.
2. Acknowledgment of mortgage valid. Record to be evidence.

A Supplement to an act entitled, "An Act to incorporate the Maryland and Delaware Railroad Company in this State," passed February 13, 1857. 11 Vol. 373.

WHEREAS doubts have arisen as to the authority of the Maryland and Delaware Railroad Company, under the charter heretofore granted by this State, to mortgage the franchise of its road; therefore, Preamble.

CONCERNING RAILROADS.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the assent of this State is hereby given to the provision of a first mortgage executed by said company on the 23d day of January, 1867, to F. W. Downer, A. Green and E. L. Lowe, which is of record in the office of the Recorder of Deeds in and for Kent county, in Book F, Volume 1, Folio 82, in the following words: "And all franchises, rights, privileges and immunities to the said party of the first part belonging or in anywise appertaining, and all present or future to be acquired property which to said party of the first part shall in anywise belong or appertain:" *Provided,* that nothing herein contained shall divest or impair to any extent whatsoever any right, authority or control which can now properly be exercised by this State over the said railroad company, or their lessees, or assignees, or over the railroad or other property of said company within this State.

Assent of State to provisions of first mortgage.

Not to impair control of this State over road.

SECTION 2. *Be it further enacted by the authority aforesaid.* That the acknowledgment of the mortgage aforesaid shall and is hereby declared to be as valid and legal as if made in conformity with the requirements of the laws of this State, and the record of said mortgage shall be received in evidence in the courts of this State.

Acknowledgment of mortgage valid.

Record to be evidence.

Passed at Dover, April 1, 1869.

CHAPTER 498.

SEAFORD AND LEWES RAILROAD COMPANY.

An Act to amend the act entitled, "An Act to incorporate the Seaford and Lewes Railroad Company," passed at Dover, February 26, 1857.

11 Vol. 451.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (with the concurrence of two-thirds of each branch of the Legislature).* That the act entitled, "An Act to incorporate the Seaford and

CONCERNING RAILROADS.

Lewes Railroad Company," passed at Dover, February 26, 1857, be and the same is hereby amended by striking out of the first section thereof the names of all the commissioners appointed therein, and substituting and inserting in lieu thereof the names of the following persons: William H. Ross, Jacob Bounds, Isaac M. Fisher, Robert G. Ellegood, James W. Morgan, Samuel J. Morgan, Josiah P. Marvel, William F. Jones, Asbury C. Pepper, Gardiner H. Wright, Jacob Moore, Curtis A. Conaway and Isaac Conaway.

Section 1 amended.

Substitution of new commissioners for original ones.

SECTION 2. *And be it further enacted as aforesaid,* That wherever the word "Lewes" occurs in the title, or in any section of said act, it shall be and the same is hereby amended by striking out the said word "Lewes" and substituting and inserting in lieu thereof the word "Georgetown," and also by striking out the words "the Delaware Bay, at or near the town of," contained in the sixth and seventh lines of the tenth section of the said act, and also by striking out the entire twelfth section of the said act, which section is hereby repealed.

Inserting Georgetown in place of Lewes.

10th Section amended.

Section 12 repealed.

SECTION 3. *And be it further enacted as aforesaid,* That the said act be and the same is hereby further amended by inserting in the fifteenth line of the tenth section of the said act, and between the word "companies" and the word "and," contained in the said fifteenth line thereof, the following words, namely: "and also to connect or unite their said railroad at or near Georgetown with the Junction and Breakwater Railroad, with the assent of the Junction and Breakwater Railroad Company, and upon such terms and conditions as shall be arranged and agreed upon between the two companies, the said agreement to be also reduced to writing, and authenticated under the respective seals of the said two last mentioned companies."

Section 10 amended.

To unite with Junction and Breakwater Railroad.

SECTION 4. *And be it further enacted as aforesaid,* That in any edition of the laws hereafter published the said act shall be printed as it is herein and hereby amended as aforesaid.

To be hereafter printed as amended.

Passed at Dover, April 1, 1869.

CONCERNING RAILROADS.

CHAPTER 499.

JUNCTION AND BREAKWATER RAILROAD.

12 Vol. 606.

A Supplement to the act entitled, "An Act to aid the Junction and Breakwater Railroad Company in the Completion of their road, and for other purposes," passed at Dover, March 14, 1865.

State Treasurer to deliver to company certain bonds of State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be and he is hereby directed to deliver to the Directors of the Junction and Breakwater Railroad Company the four internal improvement bonds of the State of Delaware for one thousand dollars each and numbered respectively 129, 130, 131 and 132, which were retained by him subject to the order of the Legislature when the preceding one hundred and twenty-eight of said bonds were delivered by him to the said directors, with all the semi-annual coupons remaining thereunto annexed for the payment of the interest thereon; and also all the semi-annual coupons for the payment of interest on the forty-four internal improvement bonds of the State of Delaware for one thousand dollars each, numbered in regular succession respectively from one hundred and thirty-three to one hundred and seventy-six, inclusively, and payable as they were annexed to each of said last mentioned bonds, respectively July 1st, 1867, January 1st, 1868, July 1st, 1868, and January 1st, 1869, which were severed therefrom and retained by him, subject to the order of the Legislature, when the said last mentioned bonds were delivered without them to the said directors by him.

Subscriptions may be paid in labor or material, or in money at election of Directors.

SECTION 2. *And be it further enacted as aforesaid,* That any bona fide additional subscriptions heretofore made, or which may hereafter be made to the capital stock of said railroad company, as prescribed and required in the said act to which this is a supplement, as amended by the act entitled, "An Act to amend the act entitled, 'An Act to aid the Junction and Breakwater Railroad Company in the completion of its road, and for other purposes,'" and also by this act, may be paid and satisfied in material, work and labor necessary for the completion of the said railroad, or any bridge, wharf, pier, or other structure or building, connected therewith, or in money, at the election and discretion of the directors of the said railroad company.

STEAMSHIP COMPANIES.

SECTION 3. *And be it further enacted as aforesaid,* That no interest shall be required to be paid to the State on the mortgage of the said railroad company until the interest and coupons on the said bonds of the State, which shall have been paid by the State, shall amount to the sum of forty-eight thousand dollars, that is to say: to the amount of the said bonds directed to be retained by the State Treasurer in the said act to which this is a supplement.

Until what time company not required to pay interest.

Passed at Dover, April 6, 1869.

CHAPTER 500.

THE NATIONAL STEAMSHIP COMPANY.

11 Volume, 743. Preamble.

Sec. 1. Commissioners. Powers.

An Act to amend an Act Incorporating The National Steamship Company, passed February 24, 1859.

11 Vol. 743.

WHEREAS several of the individuals named as corporators and directors in the National Steamship Company, a corporation created by and now existing under the aforesaid act, have died, and others have failed to attend meetings to organize the said company, therefore,

Preamble.

Be it enacted, That Ambrose W. Thompson, George H. Bradbury, William G. Whiteley, Custis W. Wright, Rufus Ingalls, A. B. Steinburger, James H. Wells, Alfred Pleasanton, A. D. Lefevre and Calvin Goddard, are hereby vested with all the power, authority and interest conferred in and by the act aforesaid, and they and their successors may vote in person or by proxy at any meeting held under the said act, and that the said company may establish an office, at which board meetings may be held, at any port to which the business of the said company may extend.

Commissioners.

Powers.

Passed at Dover, January 26, 1869.

STEAMSHIP COMPANIES.

CHAPTER 501.

THE NATIONAL STEAMSHIP COMPANY.

11 Vol. 743. *An Act to further amemd an Act Incorporating the National Steamship Company, passed at Dover, February 24, 1859.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring therein,)

Additional commissioners.

SECTION 1. That Allen Hay, Charles B. Stuart, J. M. Coggeshall, Edward E. Chase, H. B. Whitbeck, Samuel Sneeder, William W. Vanderbilt, J. C. McCarter, Edward W. Serrell and F. H. Lewis, are hereby added to and associated in interest and authority with the corporators existing in the National Steamship Company, and that to legally organize the said company a meeting of the said corporators shall be held at the city of Wilmington, in this State, notice whereof shall be given two weeks previous thereto, in not less than two newspapers published in said city, and that at said meeting a board of thirteen directors shall be elected, one of whom shall be elected president, and the board thus constituted shall serve as prescribed in Section 3 of the original act, which said act and amendments thereto shall be in force from and after the passage hereof.

Meeting to organize to be held in Wilmington

Notice.

Board of Directors.

Passed at Dover, April 7, 1869.

CHAPTER 502.

THE WILMINGTON STEAMSHIP COMPANY OF DELAWARE.

An Act to incorporate the Wilmington Steamship Company of Delaware.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-*

STEAMSHIP COMPANIES.

thirds of each branch of the Legislature concurring therein, and it is hereby enacted by the authority of the same, That James Bradford, Francis Barry, Preston Lea, William G. Gibbons, John Jones, E. T. Warner, Jr., and their associates, successors, or assigns be and they are hereby incorporated into a body corporate and politic by the name, style and title of The Wilmington Steamship Company of Delaware, and by the said name, style and title the company shall have perpetual succession, and be able and capable in law to sue and to be sued, plead and be impleaded, to have and use a common seal, and the same to break renew and alter at pleasure, and to build, receive, possess, employ and dispose of ships and vessels with their appurtenances, and engines and other machinery necessary and proper for the propulsion and navigation thereof by the use of steam, and to hold all and use the necessary easements for loading and unloading, receiving and delivering merchandise transported or to be transported in said ships or vessels so to be customarily navigated by them; and further, to have all such rights and powers as are or may be incident to a corporation having for its object the transportation of goods, wares, merchandise and the transportation of mails and passengers by means of vessels propelled wholly or in part by steam; *Provided,* that nothing herein contained shall be construed to confer upon the said corporation any railroad, banking or mining privileges, or the right to hold real estate excepting such as may be deemed necessary to accommodate the company's vessels, or such as may be conveyed to said corporation for or in payment of debt.

Commissioners.

Incorporation.

Name.

Powers.

Proviso.

SECTION 2. The capital stock of said company shall not exceed five hundred thousand dollars, to be divided into shares of one hundred dollars each, and to be fixed in amount from time to time by the vote of the stockholders; said shares shall be deemed personal estate, and shall not be deemed liable to assessment after the sum of one hundred dollars on each share as aforesaid shall have been paid in, and be transferable in such manner as the said corporation by its by-laws shall direct.

Capital stock

SECTION 3. The stock or shares not issued, to which any stockholder shall be entitled by reason of partial payment thereon, shall be pledged and liable to the corporation for any debts due the corporation, whether arising from assessments or otherwise, and such stock or shares may be sold for the payment of such debts and demands in such manner as the corporation by its by-laws may prescribe; and in case the proceeds of such sale shall be insufficient to discharge such debts or demands, the corporation may have their action against the debtor for the balance

Stock liable for debts.

due, and in case a surplus over such debt and demand, interest and expenses, the same shall be paid back to the debtor.

Annual meetings of stockholders.

SECTION 4. There shall be an annual meeting of the stockholders of the said corporation, to be holden in Wilmington, Delaware, at such time as the corporation shall by its by-laws determine, for the choice from its stockholders of a board of not exceeding seven directors, and of such other officers as the said corporation may be elected*, and for the transaction of such other business as may properly be brought before such meeting, and the validity of this act shall not be impaired by the failure to hold such annual meeting, but the business thereof may be transacted at any legal meeting of the corporation held thereafter.

President, Secretary and Treasurer to be chosen.

Vacancies.

Official term.

SECTION 5. The Board of Directors shall elect a president from their own number, and shall elect a treasurer and secretary, and may, from the stockholders, fill vacancies which may occur from any cause in the Board of Directors, which officers shall hold their respective offices until the next annual meeting, and all the officers of the said corporation shall hold their offices until their successors are elected or appointed and signify the acceptance or declension of the offices to which they are respectively elected. The treasurer, before entering upon the discharge of the duties of his office, shall give bonds to the said corporation in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors, or in such manner as the said corporation by its by-laws may determine, for the faithful discharge of the duties of his office; and the said Board of Directors may at any time remove the treasurer or secretary of the said corporation and appoint others in their places; and the Board of Directors shall have the general management, control and superintendence of the business affairs of the said corporation, subject, however, to the provisions of this act and to the by-laws of the said corporation.

Treasurer to give bond.

Directors may remove the Treasurer and Secretary, &c.

Dividends.

SECTION 6. That such dividends of the profits of the said Wilmington Steamship Company as shall appear advisable to the directors shall be declared and paid to the stockholders at least once in each year, but they shall in no case exceed the amount of the net profits actually made and acquired after deducting all losses and expenses as nearly as can be ascertained up to the time of declaring such dividend.

Building of wharves.

SECTION 7. The corporation is authorized and empowered to build a wharf or wharves upon the Delaware or Christiana Rivers, fronting on land to be purchased or leased by them at or near Wilmington, or at such point below as may be decided

*So in enrolled bill.

by the directors of the company as most desirable and advantageous for the business of the company, and to have and enjoy the exclusive use and control of the same: *Provided,* That such wharf or wharves shall not be extended into the river or rivers to a greater distance than is necessary to obtain such depth of water as will admit of the company's vessels approaching it at all stages of the tide, and in no case shall it be extended to such a distance as will in any may impair or interfere with the free navigation of said rivers.

SECTION 8. No power to erect or extend wharves herein granted shall be construed to authorize the building or extension of wharves on the Christiana River to a point beyond the regular established wharf line, created for said river within the limits of the City of Wilmington by the existing laws of this State. Limit of wharf line.

SECTION 9. This act shall be deemed and taken to be a public act, and the power to revoke it is hereby reserved to [the] Legislature. Public act.

Passed at Dover, March 11, 1869.

CHAPTER 503.

THE LEIPSIC AND PHILADELPHIA STEAMSHIP COMPANY.

An Act to Incorporate "The Leipsic and Philadelphia Steamboat Company."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring,)* That John W. Fenimore, H. N. Wickersham, H. T. Hoffecker, William Collins, William T. Incorporation.

STEAMSHIP COMPANIES.

Campbell, Henry Slaughter, Samuel Hargadine, and all such persons as now are or shall become stockholders in a company now forming for the building or procuring a steamboat to run from Leipsic, on branch of Old Duck Creek, to the City of Philadelphia, touching at any other points on said branch or creek and on the Delaware River between the starting point on the said creek and the said City of Philadelphia, and their successors and assigns, be and they are hereby constituted and declared to be a corporation and body politic by the name, title and designation of "The Leipsic and Philadelphia Steamboat Company," and by that name may have succession, may make and have a common seal, and shall be able to sue and be sued, implead and be impleaded in all courts of record, and shall have full right, power and legal authority to purchase, build, hold, use, occupy and convey any steamboats for the transportation of passengers, merchandise and commodities to, from and between the points and places above mentioned, or any of them, and also all lands, tenements and hereditaments and personal estate whatsoever, which shall be necessary or proper to carry into effect the objects of the said corporation.

Name.

Powers.

Capital stock not to exceed $50,000.

Shares $25 each.

How employed.

Steamboats.

Store houses

Wharves.

Stages.

Capital stock personal estate.

How transferable.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the capital stock of the said corporation shall not exceed the sum of fifty thousand dollars, divided into shares of twenty-five dollars each; and shall be employed in the building or the purchase of one or more steamboats, with engines, boilers and machinery, and rigging, furniture, tackle and apparatus, and in the repairs necessary thereto from time to time, and in the purchase of real estate, and the construction thereon of suitable store-houses and other buildings for the safe keeping and preservation of goods, wares and merchandise and commodities owned or transported, or to be transported by said corporation, and in the construction of wharves, docks and landing places for the boat or boats of said corporation, and for such other purposes as may be necessary and convenient for steamboat navigation, and for the purpose of procuring and maintaining stages, wagons or other vehicles and horses for the conveyance of passengers and merchandise and commodities by land, to and from the said steamboat or steamboats, and that the said capital stock shall be deemed personal estate, and shall be assignable and transferable upon the books of said corporation agreeable to the by-laws for that purpose to be made and adopted.

Subscription books to be opened.

SECTION 3. *And be it further enacted by the authority aforesaid,* That the directors hereinafter named in the fifth section of this act, or any four of them, shall have power and authority to open books of subscription to said stock at such time or times and

place or places as they, or a majority of them, shall think proper, giving at least twenty days notice, in some newspaper published in this State, of their meeting to receive subscriptions to said stock. Five dollars on each share subscribed shall be paid to the said directors in gold or silver coin, or in current bank notes, at the time of subscription, and whenever two thousand dollars shall be paid in or expended in the building or purchase of a steamboat, the said company shall be considered fully organized, and may proceed to elect their officers, and the board of directors shall and may call in the residue of said stock subscribed for at such times and in such payments as they shall deem expedient, giving thirty days notice of the amount, time and place of payment in at least one newspaper published in this State, but not more than ten dollars on each share shall be called for at any one time.

Notice of opening books.

Company organized when $2,000 paid.

Calls of stock.

Notice of

Limitation of call.

SECTION 4. *And be it further enacted by the authority aforesaid,* That the affairs, property and concerns of the said corporation shall be conducted by seven directors, who shall be stockholders, and shall be chosen annually by ballot by the stockholders either in person or by proxy. In all questions, whether the choice of directors or otherwise, each share shall be entitled to one vote. Should a vacancy at any time occur in the board of directors, the place may be supplied by appointment by the remaining directors until the next annual election. The first election for directors under this act shall be held in Leipsic on the first Saturday in May next after the passage hereof, twenty days notice being first given in at least one newspaper published in this State. The stockholders, when met, shall choose two persons as judges of election, and all future elections of directors for said corporation shall be held annually at such time and place as the by-laws shall direct.

Directors to manage the affairs of company.

How chosen.

Vacancies.

First election, when and where held.

Notice.

Where subsequent elections shall be held.

SECTION 5. *And be it further enacted by the authority aforesaid,* That John W. Fenimore, H. N. Wickersham, H. T. Hoffecker, William Collins, William T. Campbell, Henry Slaughter and Samuel Hargadine shall be and they are hereby declared to be the directors of the said corporation from the passage of this act until the election is held, as provided in the foregoing section.

Directors appointed.

SECTION 6. *And be it further enacted by the authority aforesaid,* That the directors shall have power to elect a president, who shall be a director, a treasurer, and all such other officers and agents, and to employ such workmen, artificers and laborers as shall be necessary to carry into effect and execute the powers and objects of the said corporation, and to allow such compensation as they may deem proper; and, if they judge it necessary, to exact and take from their officers and agents bonds for the proper

Directors, powers of.

Authorized to require bond.

execution of their several duties and trusts, and for the faithful performance of their several contracts. They shall have power to make, ordain and establish such by-laws, rules and regulations for the management and conduction of the affairs of the said corporation as to them may seem expedient, and to alter the same at pleasure, and may therein fix, determine and regulate the price of transportation of passengers, goods, wares, merchandise, or commodities whatsoever that may be carried or transported in the boat or boats or vehicles of said corporation. The directors shall, from time to time, as they shall deem proper, declare dividends of so much of the profits of said corporation as they may deem advisable, and pay the same over to the parties entitled; but no part of the capital stock shall be divided during the continuance of the corporation. A majority of the directors shall constitute a quorum, and in all questions a majority of the directors present shall decide.

By-laws.

Dividends.

Quorum.

SECTION 7. *And be it further enacted by the authority aforesaid,* That if any subscriber or subscribers to the capital stock shall neglect or refuse to pay any installment or installments, which he or they may be liable to pay, for the space of thirty days after the time the same may have been called for and appointed for the payment thereof, by advertisement, published by order of the directors, in at least one newspaper published in this State, for the space of thirty days previous thereto, then, and in such case, the directors may either declare such share or shares of which the installments or installments are neglected or refused to be paid to be forfeited, and may sell or dispose of the same for the advantage and benefit of the corporation, or they may, in the name of the said corporation, sue for and recover the sum or sums so remaining unpaid, with interest and cost, in like manner as other debts of like amount are recoverable by the laws of this State.

Delinquent subscribers.

Forfeiture of stock.

Suit for subscription.

No delinquent stockholder, during the time that any such installment remains due and unpaid, shall be entitled to vote at any meeting of the stockholders, or to receive any dividends on the stock standing in his name.

Delinquents not allowed to vote.

SECTION 8. *And be it further enacted by the authority aforesaid,* That if any election of directors shall not be made on any day when it ought to be made, the said corporation shall not for that cause be deemed to be dissolved, but such election may be held at any time thereafter, upon notice as aforesaid; and the directors for the time being shall in all cases continue to hold their offices until new ones shall have been chosen in their stead.

Failure to elect Directors not to dissolve corporation.

SECTION 9. *And be it further enacted by the authority aforesaid,* That the said corporation shall not use or employ any part of the

Banking powers prohibited.

capital stock or other funds for banking purposes, but for such objects only as are clearly contemplated by this act.

SECTION 10. *And be it further enacted by the authority aforesaid,* That this act shall continue in force for twenty years, and no longer, without renewal, and that the Legislature may at any time hereafter revoke the same. Limitation

Passed at Dover, April 8, 1869.

CHAPTER 504.

LEWES CREEK IMPROVEMENT COMPANY.

An Act to Incorporate the Lewes Creek Improvement Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring),* That a company shall be established for the improvement of Lewes Creek. The capital stock of this company shall not exceed twenty thousand dollars, divided into eight hundred shares of twenty-five dollars each, and the said company shall go into operation, and their incorporation, as hereinafter provided, shall take effect whenever fifty shares shall be subscribed. Company to be established. Capital stock When to go into operation.

SECTION 2. *And be it further enacted,* That Laban L. Lyons, Harbeson Hickman, John Marshall, Walter Burton and Robert Arnell shall be commissioners, and they, or any two of them, are authorized to open books at Lewes, at any time hereafter, upon ten days' notice, posted in five of the most public places in Lewes aforesaid, to receive subscriptions to the said capital stock, which said books shall continue open so long as the said commissioners, or a majority of them, shall direct, and may be Commissioners to open books. Notice.

NAVIGATION COMPANIES.

again re-opened on giving notice as aforesaid and closed as aforesaid, so often as may be deemed necessary by the said commissioners until the amount of said stock be subscribed.

Incorporation.

SECTION 3. *And be it further enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns, shall be and they are hereby created a corporation by the name of "The Lewes Creek Improvement Company," and shall continue and by that name have succession for twenty years from the time of the passage of this act, and shall have power and capacity to sue and be sued in courts of law and equity, to purchase, take and hold, as well as to sell and alien any lands, tenements, hereditaments, goods, chattels, rights, credits and effects, which may be conducive to the purpose for which said company is formed, to have and use a common seal, to ordain by-laws, rules and regulations for their own government not repugnant to the constitution and laws of this State, or of the United States, and to enjoy the franchises of a corporation, but they shall not use or enjoy any banking powers whatever. The business of the said company shall be managed by five directors, who shall be stockholders, and shall be elected by the stockholders annually. The first election may be held upon ten days' public notice, given as herein provided for the opening of the books of the company. The directors shall elect one of their number to be the president, and the said president and directors shall appoint one of the stockholders to be the treasurer of said company, who shall give such bond as they may deem necessary, and shall have power to remove and change such treasurer, as may be deemed necessary, until the stockholders, at an annual meeting, shall make and adopt such by-laws regulating and prescribing the duties and powers of the president, directors and treasurer, and prescribing the amount of bonds to be given by such officers, and that all such by-laws, rules and regulations may be changed, altered, or amended at any annual meeting of the stockholders, and not otherwise; that the annual meeting shall be held in Lewes, on the second Monday in February in each and every year; that the said company may enter upon and deepen any part of the channel of said Lewes Creek, and may also enter upon and cut through any of the public marshes for the purpose of cutting a new channel wherever they may consider it best for the improvement of the navigation of said creek, and whenever any owners of any private marsh through which the said company may consider it necessary to cut any new channel shall refuse or neglect to make an arrangement so as to enable the said company to cut such channel, it shall be the duty of any judge of the Superior Court, upon application made to him by said company, to appoint

Name.

Powers.

Directors to manage business of company.

How chosen.

President.

Treasurer.

His bond.

May be removed.

By-laws.

Annual meetings.

Company to deepen channel of Lewes creek.

Condemnation of marsh.

NAVIGATION COMPANIES.

five impartial citizens of Sussex county to go upon, view and assess the damages that any such owner shall be entitled to, and to require that the said five impartial citizens (commissioners) shall be first duly sworn to assess such damages and make and certify to such owners and to such company the amount thereof, and also stating the width and length of the marsh which the said company may be entitled to use for the purposes of said company. And should such owner or owners be not satisfied with the award thus made and certified to them, or should the company be not satisfied with such award, then either party may, within thirty days from the time of the service of such award, apply to the Prothonotary of the Superior Court of Sussex county for a writ of *ad quod damnum*, which shall be final when the same has been confirmed by the said court; that the said company shall not enter on any private marsh until all the damages have been paid to such owner or owner, or in case of the neglect, refusal, or disability of such owner or owners to receive the same, then until the said company shall deposit the said amount due such owner or owners to the credit of such owner or owners in the Farmers' Bank of the State of Delaware, at Georgetown. That for the purpose of making the improvement of the channel of said Lewes Creek more available, it may also be lawful for the said company to erect and make a tow-path along said creek, upon the banks thereof, and upon the public marshes through which said company may cut such new channel.

Writ of ad quod damnum.

Payment of damages.

Tow-path.

SECTION 4. *And be it further enacted,* That at the first meeting of the stockholders, called by the commissioners as hereinbefore provided for the election of directors, the subscribers shall pay the sum of five dollars on each share of stock subscribed for, and the directors may call in the balance of said subscribed stock in two installments, upon giving twenty days' notice of the same, either personally to such subscribers, or by notice given in two of the newspapers published in the county, if there be such, otherwise in two of the newspapers published in this State, and there shall be at least thirty days between the times appointed for the payment of said last two installments, and [upon] the neglect or refusal to pay said last installments, or either of them, for more than ten days after the time appointed for the payment thereof, the amount heretofore paid in shall be forfeited to the company.

Installments on stock.

SECTION 5. *And be it further enacted,* That the said five commissioners herein named shall have power and authority, for the purpose of making the improvements herein contemplated, to go upon and view the said creek and marshes, and to lay off and

Powers and duties of commissioners.

mark out such canals, tow-path, and note such improvements as they shall deem necessary, and make a plot or description thereof and submit the same to the first meeting of the stockholders, to be held under the provisions of this act, for their approval, and when the same shall have been approved, as returned to the said meeting, or altered by the said meeting and approved, and each stockholder who shall have paid in the first installment of five dollars for each share of stock subscribed by him, and no others, shall be entitled to one vote for each share upon which said sum of five dollars has been paid; and that thereupon the directors, when chosen, may proceed to the deepening of said creek and the cutting of said canals, and making the said tow-path, and may make contracts for the same, or hire and pay such laborers and procure such machines as they may deem most advantageous for the purpose of affecting such improvements.

Right of stockholders to vote.

Duties of Directors.

Of the right to dam water

SECTION 6. *Be it further enacted,* That it shall be the duty of said directors, and they are hereby authorized and empowered, as soon as the said improvements shall be so far completed as that vessels drawing five feet water may pass through the same at common high water, to stop or dam up such place or places in said creek, as they may deem expedient, so as to turn the waters of said creek through said improvements; and when the said improvements shall have been so far completed as to allow vessels to pass through the same at common high water, drawing five feet, so far as to the intersection of said improvements with Canary Creek, then said company may be, and, until the amount of the capital stock, or the actual amount expended in improving said navigation, and all costs attending the same, with legal interest, shall be fully satisfied, they are hereby authorized to charge and collect tolls from any vessel or boat passing through the said improvements, of more than ten tons capacity, at the rate of not more than fifteen cents per ton for the trip in and out; and whenever the said improvements shall have been so completed as to allow vessels drawing five feet, as aforesaid, to pass and repass to the bridge over said creek at Lewes, it shall and may be lawful for the said company to charge and collect tolls from all such vessels as hereinbefore mentioned at the rate of not exceeding thirty cents per ton for passing and repassing through any part of said improvements in and out, so long as the said company shall keep the said improvements in such condition as to allow vessels of the draught of five feet to pass and repass at common high water; and whenever said company shall allow any obstructions to remain in said improvements so as to prevent the use of the same, for an unreasonable time, then they shall forfeit all the privileges herein conferred: that the said toll may be collected by distress and sale of any property belonging to said vessel.

Tolls.

NAVIGATION COMPANIES.

SECTION 7. *And be it further enacted*, That if any person or persons shall designedly fill up, obstruct, or injure any of the said improvements, when made, or during the making thereof, he, she or they so filling up, obstructing or otherwise injuring the said improvements, or any part of them, shall be deemed guilty of a misdemeanor, and shall be fined not more than five hundred dollars, and shall also be held responsible to said company in damages in a civil suit. This shall be deemed and taken to be a public act, and the power to revoke this act is hereby reserved to the Legislature. Penalty for injuries to creek.

Passed at Dover, February 5, 1869.

CHAPTER 505.

THE CEDAR CREEK NAVIGATION COMPANY.

An Act to Incorporate "The Cedar Creek Navigation Company."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of each branch of the Legislature concurring herein)*, That a company shall be established for the improvement of Cedar Creek, in Sussex county, and for draining all marshes and other low grounds lying on or contiguous to the said creek. The capital stock of this company shall not exceed ten thousand Company to be established. Capital stock

NAVIGATION COMPANIES.

dollars, divided into one thousand shares of ten dollars each, and said company shall go into operation, and their corporation shall take effect whenever two hundred shares shall be taken or made up, either by subscription or otherwise.

When to go in operation.

Commissioners.

SECTION 2. *And be it further enacted,* That Nehemiah Davis, Henry S. Watson, George Hallowell, William V. Coulter and Thomas J. Davis, shall be commissioners, and they, or any two of them, are authorized to receive subscriptions to the said capital stock, and for that purpose they shall open books at such time and in such place in the Town of South Milford as the said commissioners, or any two of them, may appoint, and such books shall continue open there thirty days at least, and afterwards, until the said commissioners, or a majority of them, shall deem it proper to close the same. Two week's notice at least, of the time and place of opening such books shall be given by advertisements, published in one of the newspapers of this State, or by notices printed in handbill form, and posted in at least ten of the most public places in the hundred in which said creek lies. Subscriptions may be made by proxy as well as in person, and the amount subscribed shall be paid as hereinafter provided.

To receive subscriptions to capital stock.

Commissioners, &c.

SECTION 3. *And be it further enacted,* That if the whole of said capital stock, or such portion of it as may be deemed sufficient to accomplish the work proposed and herein specified, be not voluntarily subscribed within the time appointed for that purpose, Alfred Short, Henry J. Pierce and Robert H. Davis be and they are hereby appointed commissioners to go upon and view the marshes and low grounds lying on and contiguous to the said Cedar Creek as aforesaid, and after viewing the same they, or a majority of them, shall ascertain and determine what owner or owners of said marshes and low grounds will be benefited by the improvements contemplated by the said company and herein provided for, and shall appraise all such marshes and low grounds which in their opinion will be benefited by such improvements, by fixing the value thereof per acre, according to situation and upon such principle as will do equal justice to all parties, which said appraisement shall be the rate of assessment for all taxes to be laid under this act; and the said commissioners, or a majority of them, shall estimate the sum of money required, in addition to the aggregate sum then subscribed to the capital stock by persons other than such owner or owners of the marshes and low grounds aforesaid, to do the work and make the improvements aforesaid, and shall apportion, lay and assess the same upon the said value so fixed, according to a certain rate for every dollar of said value, and so pro rata, and shall apportion the said sum of money among the respective owners accordingly, which sum

To view marsh.

Appraisement thereof

Estimation of same required by company.

Assessment.

NAVIGATION COMPANIES.

shall constitute a part of the capital stock of the company, and be divisible into shares of like amount as those voluntarily subscribed, and when paid shall entitle the persons paying the same to all the benefits, privileges and immunities of, and subject them respectively, from the time when the same shall be assessed, to all laws, rules and regulations which apply to voluntary subscribers to the capital stock as aforesaid, and make them, to all intents and purposes, subscribers to said capital stock to the amount assessed upon them: *Provided, however*, that in case any owner or owners of marsh or low grounds as aforesaid, who shall be assessed and taxed as aforesaid, shall have subscribed for any share, or any number of shares of the capital stock aforesaid, then and in such case such share or number of shares so subscribed for by him shall, at his option, stand to his credit as a part of his assessment aforesaid, and the same shall not be collectible otherwise than as a part of such assessment; and the said commissioners shall make two certificates, to be signed by them, or a majority of them, describing the improvements contemplated to be made, and containing the names of the owners of the said marshes and low grounds and the quantities thereof held by them respectively, the appraisement or valuation, the taxes laid, and the number of shares and parts of a share of capital stock to which each is entitled. One of the said certificates shall be deposited in the office for recording deeds in and for Sussex county, and a copy of said record, under the hand and seal of the said Recorder, shall be competent evidence, and the other of said certificates to the treasurer of the company for the time being; and the said certificates shall be final and conclusive upon all parties.

Amount to become part of capital stock.

Proviso.

Certificates.

Where deposited.

SECTION 4. *And be it further enacted*, That the subscribers and contributors to the capital stock as aforesaid, their successors and assigns, shall be, and they are hereby declared to be, a corporation and body politic, by the name of "The Cedar Creek Navigation Company," and by that name shall have continuance, and may take and have a common seal, and shall be capable of suing and being sued, impleading and being impleaded in all courts of law and equity, and to purchase, have, hold, receive, possess, retain and enjoy to themselves, their successors and assigns, lands, tenements, hereditaments, goods, chattels and effects of any kind, nature or quality whatever, and the same from time to time to sell, grant, demise, alien or dispose of at pleasure, to make by-laws, ordinances and regulations not contrary to the laws and constitution of this State, or of the United States; and also to appoint such officers and agents as may be necessary to effect the purposes and intent of this act, and to allow them such compensation

Incorporation.

Name.

Powers.

as shall be right and proper, which, together with all other expenses, shall be defrayed out of the funds of the corporation: *Provided*, that power is hereby reserved to the General Assembly to revoke, alter and amend this act of incorporation: *And provided further*, that this act of incorporation shall not continue in force for a longer period than twenty years without the re-enactment of the Legislature.

Revocation.

Continuance

Banking powers prohibited.

Directors to manage business.

How elected.

Elections.

Official term.

Vacancies.

President.

Board.

President pro tem.

Of the powers of Directors to cut canals, &c.

SECTION 5. *And be it enacted*, That it shall not be lawful for the said corporation to exercise any banking powers whatsoever. The business concerns of the corporation shall be managed by five directors; the said directors shall be elected by the stockholders; the first election shall be held as hereinafter appointed; all the subsequent elections shall be held at the annual meeting of the stockholders; the said directors shall continue in office until the annual meeting of the stockholders next succeeding their election, and until successors to them shall be duly chosen and qualified, but a vacancy caused by death, resignation or inability to serve in the office of director, may be filled by appointment made by a majority of the board of directors. The office of a director shall become vacant by his ceasing to be a stockholder. The directors shall choose one of their number to be a president; they shall meet according to the by-laws of the corporation, and any three of them shall form a board to transact business; and if the president be absent at any meeting of the board a president *pro tem.* may be appointed. The directors shall have power to cut or make any canal or canals, ditch or ditches, or to enlarge, deepen and change in any manner any existing canal or ditch for the improvement of the said creek and for draining or otherwise improving the marshes and low grounds lying on or contiguous thereto, as may be deemed necessary; the said directors may also shorten or deepen the waters of the said creek, or cut a new mouth at such place as they may select, or they may connect the waters of Cedar and Mispillion creeks in such manner as they or a majority of them shall consider necessary to improve the said Cedar creek and the marshes and low grounds aforesaid, and to do all other lawful acts and things requisite to effect and carry on the purposes for which this company is established, and to this end to use and employ the capital stock and funds of the corporation under such regulations as the by-laws may prescribe, and to bind by their contracts, deeds or writings, under the seal of the corporation and the hand of the president, all the property and estate, common stock and joint funds of the corporation aforesaid, but not the persons or separate property of themselves or any of the stockholders. *And further*, The said directors shall have power to make the by-laws for the govern-

Other powers of Directors.

ment of the corporation, and for regulating the management of the business and concerns thereof, and to revise, repeal or amend the same, subject always to the control of the stockholders in regular meeting. The by-laws shall prescribe the officers of the corporation other than those of president and directors, the bonds to be taken from the officers, the place of holding the meetings of the stockholders, the manner of calling the meetings, the mode and regulations of assigning the shares or portions of the capital stock: *Provided*, that all meetings of the stockholders and directors shall be held at some place in the Town of South Milford, where all the capital stock of the company may be assigned, either by proxy or by person. There shall be an annual meeting of the stockholders on the second Saturday in April in every year during the continuance of the corporation. If any election shall not be held at the annual meeting of the stockholders, or if a meeting shall not be held on the day appointed in any year, the corporation shall not for that cause be dissolved, but in such case directors may be chosen at an occasional meeting regularly held. The first annual meeting shall be held on the second Saturday in April, in the year of our Lord one thousand eight hundred and sixty-nine, in the Town of South Milford, or at such other time and place as the stockholders shall appoint. In all meetings of the stockholders, regularly held, those assembled may proceed to business, and the acts of a majority thereof shall be valid in all cases. All elections of directors shall be by ballot, one vote for every share. Absent stockholders may vote by proxy. A majority of votes given shall determine all questions. No director shall be entitled to receive or demand compensation for services except the same shall be allowed by the stockholders at a regular meeting. The shares of the capital stock shall be personal property and assignable subject to the regulations of the by-laws. The directors shall make yearly dividends of the clear profits of the business of the corporation, or such part of the clear profits as may be deemed advisable; the directors shall also lay before the stockholders every year, at their yearly meetings, a general account of the stocks, funds, debts and credits of the corporation. Any by-laws by them made shall be open to the inspection of every stockholder.

Meetings of Stockholders where held.

When held.

Failure to hold elections not to dissolve corporation.

When and where first annual meeting shall be held.

Acts of majority to be valid.

Ballots.

Proxy.

Compensation of Directors.

Shares of capital.

Dividends.

Annual accounts of Directors.

SECTION 6. *And be it enacted*, That the subscribers to the capital stock, and the owners of the marshes and low grounds as aforesaid, shall respectively pay one-half part of the amount payable upon all the shares subscribed by or assessed to them respectively, as hereinbefore provided, on the day of the first meeting of the subscribers, to be held as herein provided, to the

Installments on stock.

directors who shall then be chosen, and the other half part thereof in such manner and at such time as the president and directors shall appoint, and either at one time or in installments, as may be deemed expedient by the president and directors; and the president and directors shall give public notice of the manner and time which they shall appoint for paying such other half part of said amount by advertisement in one of the newspapers published in this State, or by any other means by them deemed advisable or necessary, at least thirty days before the time appointed for such payment, to be continued in such newspaper, or other means, for at least three weeks; and if such subscriber or owner of marsh or low grounds, or any of them, shall refuse or neglect to make payment of the sum payable by him, her, or them, for the space of thirty days, after due notice given as above stated, the president and directors may either declare the share or shares of such delinquent subscriber or subscribers, owner or owners of marsh and low grounds, forfeited, and assign or otherwise dispose of the same to any person who will purchase the same, or they may proceed to sue for and recover the amount due thereon from such delinquent as like sums are recoverable by law.

Notice.

Proceedings in case of neglect to pay installments.

First meeting of stockholders.

SECTION 7. *And be it further enacted,* That as soon as the capital stock or capital stock and assessments aforesaid, amounting to the sum of two thousand dollars thereof shall be subscribed, or subscribed and assessed, as herein provided, the commissioners first named herein, or a majority of them, shall call a general meeting of the stockholders, to be held in the Town of South Milford, or such other place as they may appoint, on a day in such call to be mentioned, and shall give notice of such call, and the time and place of such meeting, by advertisements, to be inserted in at least one newspaper published in this State, and such notice shall also give information that one-half part of the sum subscribed or assessed is, on the day of such meeting, to be paid, and the subscribers who shall assemble at such meeting shall have power to proceed to business, to elect directors, to make by-laws, and to do all other acts and things which the stockholders can do according to this charter.

Notice.

Penalty for obstructing works of company.

SECTION 8. *And be it further enacted,* That if any person or persons shall designedly fill up, obstruct, or in any manner damage the said canal or canals, ditch or ditches, when cut, made, or changed, or while in the act of being so cut, made, or changed, or shall obstruct or damage, in any way, the navigation of said Cedar Creek, he, she, or they so offending, shall incur a penalty of any sum not exceeding five hundred dollars, with full

costs of prosecution, to be recovered by indictment in any Court of General Sessions of the Peace in and for Sussex county.

SECTION 9. *And be it further enacted,* That it shall and may be lawful for the directors, or any person authorized by them, to demand and receive from the master, commander, owner, or other person in possession or controlling any vessel, flat, lighter or open boat navigating or passing through any canal or canals, cut, made or changed, or any new mouth of said creek made under the provisions of this charter, a sum not exceeding fifty cents per ton for every time such vessel, flat, lighter or open boat shall pass through the said canal or canals, or new mouth of said Cedar Creek, until all the capital stock or actual amount expended in cutting, making or changing the said canal or canals, ditch or ditches, or in opening the said new mouth of Cedar Creek as aforesaid, with lawful interest thereon, and all costs attending the same shall be fully satisfied and paid; and in case the said master, commander, owner, or other person in possession or control of such vessel, flat, lighter or open boat, shall neglect or refuse to pay the sum, such person so demanding the same shall be authorized to demand and receive, as above provided, for every ton such vessel, flat, lighter or open boat may measure, to the said directors or other person authorized by them to demand and receive the same as aforesaid, then and in every such case it shall and may be lawful for the said directors or their agent, and they or their agent are hereby authorized to issue a warrant in the name of the State of Delaware, directed to any constable in Sussex county, commanding him to levy the said sum by distress and sale of any part of the rigging, tackle or furniture belonging to such vessel, flat, lighter, or open boat, or in case such rigging, tackle and furniture shall not be found sufficient to pay the demand, the said vessel, flat, lighter, or open boat may be distrained and sold in like manner to pay said demand, or any part thereof unpaid, and after retaining the sum or sums which may be due, and the costs which may have accrued on the sale of said rigging, tackle, furniture, vessel, flat, lighter, or open boat, to return the balance of proceeds of such sale to the said master, commander, owner, or other person in possession or controlling such vessel, flat, lighter, or open boat.

Tolls.

Amount thereof

Refusal to pay.

How collected.

SECTION 10. *And be it enacted.* That for the purpose of ascertaining the amount or rate of toll each and every vessel, flat, lighter, or open boat may be liable to pay under the provisions of this act, that it shall be the duty of each and every captain or other person commanding, or the owner of the same, to produce to the treasurer or other officer authorized to collect such toll the register or license of every such vessel, flat, lighter,

Mode of ascertaining amount of tolls.

or open boat, under the penalty of five dollars with costs of suit, to be recovered before any justice of the peace in and for Sussex county, to be applied to the use and benefit of the canal or canals and Cedar Creek aforesaid; and should there be no register of any such vessel, flat, lighter, or open boat which come within the provisions of this act, it shall and may be lawful for the directors, or their agent, to call upon some skillful person to measure the burden thereof, and the said vessel, flat, lighter, or open boat, when so measured, shall come within the provisions of this act and be liable for the amount of tolls so rated.

Compensation of commissioners.

SECTION 11. *And be it enacted,* That every commissioner shall, for each and every days service under the provisions of this act, receive one dollar.

Officers to be sworn.

SECTION 12. *And be it further enacted,* That every commissioner and director as aforesaid, before entering upon the duties of his office as such, shall be sworn or affirmed, before some judge or justice of the peace, faithfully and impartially to perform the duties required of him by this act.

Public act.

SECTION 13. *And be it also further enacted,* That this act be and the same is hereby declared to be a public act.

Passed at Dover, February 23, 1869.

CHAPTER 506.

PRIME HOOK AND SLAUGHTER CREEK DITCH COMPANY.

DITCH COMPANIES.

An Act to incorporate The Prime Hook and Slaughter Creek Ditch Company.

WHEREAS there was heretofore opened a certain ditch in Cedar Creek hundred, Sussex county, known as Straight Ditch, leading from Prime Hook to Slaughter Creek; and whereas the same has gone out of repair, and is now insufficient to drain Prime Hook and Broadkiln marshes adjacent; and whereas it is the desire of the land owners on or adjacent to said marshes to widen and deepen said ditch, and for that purpose to be incorporated, which desire they have signified by petition to this General Assembly now in session; therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, and it is hereby enacted by authority of the same, (two-thirds of each house concurring,)* That Myers Reynolds, Samuel M. Lofland, Thomas R. Wilson, George Wilson and Edward P. Roach, and all others, who are or hereafter may be taxables on said ditch or marshes, be and the same are declared to be a body corporate in law, for the purpose of this act, mentioned by the name, style and title of "The Prime Hook and Slaughter Creek Ditch Company," and by that name shall have succession, may sue and be sued, plead and be impleaded, and generally have and enjoy all the privileges, immunities and franchises incident to such a corporation under the constitution and laws of this State. Incorporation. Name. Powers.

SECTION 2. That the first meeting of the said taxables shall be held on the third Saturday in April, 1869, at two o'clock in the afternoon, at such suitable and convenient place as the corporator first named shall designate, who is hereby authorized and required to give five days notice of the time and place of said meeting by ten written or printed handbills, five of which shall be posted in as many of the most public places in Prime Hook Neck, and the like number in the like places in Broadkiln Neck. At this meeting the said taxables shall elect from their own number five managers, who shall serve for one year, or till their successors shall be chosen and qualified at the next annual meeting, and shall have full power to act for and on behalf of the company unless expressly limited or restricted by resolution of the corporators duly passed. First meeting of taxables. Notice. Election of managers. Term. Powers.

SECTION 3. Immediately after the election of managers at the first and subsequent annual meetings, they shall organize by electing one of their number president and another secretary. They shall also appoint a Treasurer at the same time, who may or may not be of their number, as the said managers or a majority Election of officers.

of them may determine. They may also, at their option, appoint one person to discharge both the offices of secretary and treasurer.

Duties of Secretary.

SECTION 4. The secretary shall keep a minute of the proceedings of the corporators and managers, and record the same in a book to be kept for that purpose. He shall also attest all papers issued by the board of managers and signed by the president, and generally discharge all duties usually performed by a secretary of a corporation of this kind.

Duties of Treasurer.

Commissions.

Report of Treasurer.

SECTION 5. The treasurer shall collect and receive all moneys belonging or accruing to the company, and pay over the same on orders authorized by the managers, signed by the president and attested by the secretary. He may receive such commission for his services as the managers shall allow, not exceeding five per centum on the whole amount collected and paid over by him. At the annual meeting, and oftener if required, he shall make out and present a full and accurate report, in detail, of all moneys received and paid out by him for the year previous, accompanied by the proper vouchers, and also, at the same time, a list of delinquents, with the amount due by each.

Malfeasance of Secretary and Treasurer.

Security.

Vacancies, how filled.

SECTION 6. The board of managers shall have power to remove the secretary and treasurer at any time for malfeasance in office. They may also require him to give security at any time, and on failure to do so, to dismiss him forthwith. They shall also have power to fill vacancies in the offices of secretary and treasurer and in their own board, to continue until the next annual meeting.

Election of commissioners.

Duties.

Assessment.

Term of valuation.

New valuation, when.

Oath of commissioners.

Report.

What to contain.

SECTION 7. The said taxables shall also, at their first meeting to be held as aforesaid, choose three substantial, judicious and disinterested freeholders, of Sussex county, as commissioners to estimate the benefit which shall accrue to each land owner in consequence of the widening and deepening of said ditch, and the said commissioners are hereby authorized and required to go upon the lands to be benefited, ascertain the owners thereof, view the same, and fix the amount each tract and the owner or owners thereof shall be taxed for the purpose aforesaid, and the valuation so fixed by the said commissioners shall be the basis of all future assessments for maintaining the said ditch for a period of five years. At the end of five years the said taxables may, in like manner, choose three commissioners and have a new view and valuation, and so continuously at the end of every succeeding five years. The said commissioners shall be sworn to discharge their duty with fidelity and without partiality. They shall make their report to the board of managers within twenty days after their appointment, and this report shall contain the names of all the land owners assessed, the quantity held by each owner

respectively, the assessment on each tract and the estimated cost of the improvement, and shall be signed by said commissioners. Should any vacancy occur in the board of commissioners it shall be filled by the said taxables at a special meeting called for that purpose, in the same manner that the original commissioners were appointed. The commissioners shall receive each one dollar and fifty cents per day for the time necessarily spent in the execution of their trust, to be paid by the company.

Vacancy in Board, how filled.

Fees of commissioners.

SECTION 8. As soon as may be after such report shall have been made by the said commissioners as aforesaid, the managers may proceed to determine what proportion, if not the whole of said assessment, shall be collected for the purpose of widening and deepening said ditch, and shall make out a duplicate list of what each taxable is to pay, and place the same in the hands of the treasurer, who shall forthwith proceed to collect the same, in the same manner that the county rates are collected, and with like authority to enforce payment thereof. And the said managers shall, from time to time, make such additional assessments upon the basis of the first one, made by the commissioners aforesaid, as they may deem proper and necessary for maintaining the said ditch in good repair, which additional assessment shall be made and collected in like manner. And in case of the change of ownership of any of said lands in the meantime, the said change shall be noted, and the new owner substituted accordingly. The said taxables, at any annual meeting, or at any special meeting called for that purpose, may determine what sum shall be raised by assessment for repairs or other object. It shall be the duty of the managers, from time to time, to keep said ditch in good repair, and each manager shall receive one dollar for each days service rendered the company in discharge of the duties required by this act.

Commissioners to determine what part of assessments to be collected.

Duplicate of assessment list.

Collection of tax.

Power of Treasurer.

Additional assessments.

Name of new owner to be substituted if land sold.

Assessments for repairs.

Fees of managers.

SECTION 9. Any person assessed under the provisions of this act may pay the same by work done on said ditch, under such regulations as the managers may adopt, and their certificate therefor shall be received as cash by the treasurer.

Tax may be paid in work

SECTION 10. The said taxables, at their first meeting as heretofore provided for, shall fix the time and place of the next and subsequent annual meetings, and when so fixed a record shall be made thereof, and the same shall not be changed except at an annual meeting: *Provided*, that not more than one year shall elapse between the first and second meeting. Special meetings may be held at any time on the call of the managers, or any five taxables, but the notice of such special meetings shall contain a clear statement of their object, and no other business shall be transacted thereat. The notice of all meetings after the first

Annual meetings.

Special meetings.

Notice.

Notice of meetings, how given.

shall be given in the same manner as the first, except that they shall be signed by the president and attested and posted by the secretary, or when called by five taxables they shall be signed and posted by said taxables themselves.

Quorum of taxables.

Quorum of managers or commissioners.

SECTION 11. A majority of the taxables present at any meeting, duly called in pursuance of this act, shall be competent to transact business, and a majority of the managers or commissioners, chosen in pursuance of the provisions of this act, shall constitute a quorum to do business.

Right of adjacent land owners to cut ditches.

Proviso.

SECTION 12. Every person owning land adjacent to said ditch, or ratable and liable to be assessed under the provisions of this act, shall have full power, without let or hindrance, to cut such other ditches or drains as may be necessary to drain his land into the company's ditch at such place or places as he may find convenient and proper: *Provided*, that if such ditches or drains shall run through the lands of any other person or persons, the place of cutting the same shall, in case of disagreement, be fixed by three disinterested freeholders appointed by the managers.

Penalty for injuring ditches.

How recovered.

SECTION 13. Any person or persons in anywise injuring any ditch authorized to be improved or opened under the provisions of this act, shall forfeit and pay a penalty of thirty dollars to said company, to be recovered as other sums of like amount are recoverable before any justice of the peace in Sussex county.

Public act.

Revocation.

SECTION 14. This act shall be deemed and taken to be a public act, and the power of revoking or repealing the same is hereby reserved to the Legislature.

Passed at Dover, March 4, 1869.

CHAPTER 507.

DUCK CREEK IMPROVEMENT COMPANY.

12 Volume, 672.
SEC. 1. Section 1, Chapter 592 amended.
SEC. 2. Section 8, Chapter 592 amended.

12 Vol. 672.

An Act to amend an act entitled, "An Act to incorporate the Duck Creek Improvement Company."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring),* That the act entitled, "An Act to incorporate the Duck Creek Improvement

Company," passed at Dover, February 17, 1859, be amended by striking [out] all of Section one, after the word "vote," in the forty-fourth line of said section, and inserting in lieu thereof the words "every owner or person liable to tax may vote in person or by proxy constituted by a note in writing." Sec. 1, Chap. 592 amended

SECTION 2. *Be it enacted by the authority aforesaid,* That Section eight of the act aforesaid be amended by striking out the word "eight," in the ninth line of said section, and inserting in lieu thereof the word "four." Sec. 8, Chap. 592 amended

Passed at Dover, March 5, 1869.

CHAPTER 508.

MAIDSTONE BRANCH DITCH COMPANY.

An Act to incorporate the Maidstone Branch Ditch Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein),* That the owners and possessors of certain swamps and low grounds situate, lying and being in Dover hundred, Kent county, and State of Delaware, contiguous to and draining into what is commonly known as "Maidstone Branch," shall compose a company Incorporation.

DITCH COMPANIES.

Name.

to be called "The Maidstone Branch Ditch Company," and shall hold a meeting on the last Saturday in March next, and on the last Saturday in March of every year thereafter, at "Rose Valley" school-house, in said hundred, or at such other place as such company shall determine by a resolution to be adopted at any annual meeting of said company, at which annual meetings said company shall choose by ballot and a plurality of the votes present one treasurer, one secretary, and three managers, and may do all such matters and things as the said company may deem requisite for effectually draining and reclaiming the said swamps and low grounds; and such and every annual meeting of said company may be adjourned from time to time by said company, and occasional meetings may be called from time to time by the managers for the time being, or a majority of them. at such times and places as the managers may appoint, by giving ten days public notice, by advertisements put up at five of the most public places of the neighborhood, and at such other places as the managers for the time being may think advisable; and if the treasurer, secretary, or managers shall not all or any of them be chosen at the stated or annual meeting for the current year, or for any year thereafter, or any of them shall die, resign, or neglect to act, such vacancy or vacancies may be filled at any adjourned or occasional meeting of said company by ballot and plurality of votes present; and if any treasurer, secretary, or manager shall remove from the neighborhood, and dispose of his interest in said low grounds, the said company may, at any meeting, declare the place of such officer vacant and elect another to fill such vacancy. At all meetings of said company every owner of any swamp or low grounds ratable and assessed by virtue of this act, may vote, if present, or, if absent, by proxy, duly attested under their hands and seals, and every person so assessed shall be entitled to one vote for every ten dollars or fractional part thereof for which he shall stand assessed.

Annual meeting

Place of meeting.

Election of officers.

Corporate powers

Adjourned meeting.

Occasional meetings, how called.

Notice.

Vacancies, how filed.

When offices may be declared vacant.

Who may vote.

Proxy.

Term of officers.

SECTION 2. *And be it further enacted,* That the treasurer, secretary and managers, chosen in pursuance of this act at the first meeting of said company, shall continue in office until the next annual meeting of said company and until successors shall be duly chosen, and the same rule shall apply to all officers elected at any meeting of said company.

Commissioners appointed.

SECTION 3. *And be it further enacted,* That Manlove Hayes, Wilson L. Cannon and Richard M. Jones be and they are hereby appointed commissioners to make valuation of all said swamp and low ground, and the said commissioners, or a majority of them, are hereby authorized and empowered to enter upon all the swamp and low ground lying and being contiguous to or draining

Powers.

DITCH COMPANIES.

into said Maidstone Branch, and view, examine, ascertain and determine the width, depth and location of one or more ditches or drains necessary and sufficient to drain said swamp and low grounds, the quantity held by each owner or owners, and shall appraise and determine the benefit and advantage which each owner or owners aforesaid will derive by reason of the cutting or making of such ditch or ditches, drain or drains; and the said commissioners, or a majority of them, shall make two certificates under their hands, or the hands of a majority of them, containing the names of the respective owners of said swamp or low grounds, the quantity held by each owner or owners, and the appraisement of the benefits, profits and advantages to be derived by each owner or owners as aforesaid of said swamp and low grounds so by the said commissioners to be made as aforesaid, and shall deliver one of said certificates to the secretary of said company, and shall return the other of said certificates into the office of the Recorder of Deeds in and for Kent county, to be therein recorded by the Recorder of Deeds for said county, which certificate shall be final and conclusive upon all parties, and shall be and remain the true appraisement and valuation upon which all and every the tax or taxes which may be necessary to effect the purposes of this act shall be assessed, levied and raised, and a copy of the record thereof, certified by the said Recorder under his hand and seal of office, shall be good and sufficient evidence in all courts of justice and before all justices of the peace in this State. Each commissioner, before he enters upon the duties required of him by this act, shall be sworn or affirmed, before some judge or justice of the peace in and for Kent county, to faithfully, according to the best of his skill and judgment, exercise the duties assigned him by this act. If either of the said commissioners shall die, resign, refuse, or neglect to act before all or any of the duties assigned the commissioners under this act are performed, any judge of the Superior Court of the State of Delaware shall, upon the application of any two persons having swamp or low ground affected by this act to* fill said vacancy which may be occasioned as aforesaid, and so as often as it may be necessary until all the duties of the commissioners under this act may be completed.

Certificates of commissioners.

To whom certificates shall be delivered.

To be final.

Copy of certificate recorded to be evidence.

Oath of commissioners.

Vacancies in office of commissioners, how filled.

SECTION 4. *And be it further enacted,* That the said company shall have authority, at any annual meeting to be hereafter held, to direct, by a majority of the votes cast at such meeting, that a new appraisement or valuation of all the marsh or low grounds within the bounds of said company shall be made.

Company may direct new valuation.

* So enrolled

DITCH COMPANIES.

Election of commissioners.

Qualifications.

Return.

Time of return.

Valuation to stand until new one made.

SECTION 5. *And be it further enacted,* That whenever at any such meeting the said company, by a majority of the votes cast, shall have determined to make such new appraisement or valuation, they shall at the same meeting elect three commissioners, who shall be freeholders of Kent county and not members of said company, to make such new appraisement or valuation, which appraisement or valuation shall be made, certified and returned, in the same manner as is hereinbefore provided for the certificate and return on the original assessment, within sixty days after their election as aforesaid, and the said appraisement and valuation shall be the appraisement and valuation upon which all and every the tax or taxes which may be necessary for the purposes of this act shall be levied until the same is altered and supplied by a new valuation and appraisement under the provisions of this act.

Managers to levy tax.

At annual meeting, after ditch cut, company to determine what sum to raise.

Duplicate of assessments and taxes.

To whom delivered.

SECTION 6. *And be it further provided,* That for the purpose of raising the sum of money necessary to carry into execution the provisions of this act, it shall and may be lawful for the managers for the time being and they are hereby authorized and required, after the appraisement and valuation aforesaid shall be made and returned to the secretary and recorder as aforesaid, to lay and assess upon the value of the swamp and low grounds benefited by said ditches and drains, and mentioned in said certificates, according to and upon the value of the benefits, profits and advantages of the respective quantities or parcels of the swamp and low grounds held by the several owners thereof, a certain rate upon each and every dollar of said value, so as to raise a sum of money sufficient to cut and make all the ditches and drains necessary and proper to drain and reclaim all the said swamps and low grounds intended to be drained and reclaimed by virtue of this act, and at any annual meeting of said company, after the said ditch or ditches, drain or drains shall have been cut and made as aforesaid, the said company, by a majority of the votes cast, may determine what sum or sums of money ought to be raised by way of tax as aforesaid for the purpose of keeping the said ditch or ditches, drain or drains in good and sufficient repair, which said sum of money shall be levied and assessed according to the provisions hereinbefore mentioned; and the said managers shall, from time to time, make out duplicate lists under their hands or a majority of them, of all the assessments and taxes by them made and levied as aforesaid, which shall contain a minute of all changes of ownership and transfers of any of said low grounds or swamps, and one of the lists shall be delivered to the treasurer for the time being, the other shall be delivered to the secretary; and such assessments and lists shall be

final and conclusive upon all the parties, and the said list so delivered to the treasurer shall be a sufficient warrant to him or his successors for levying and collecting all and every the sums of money and taxes in said list mentioned. And it shall be the duty of the said managers to cut and open all such ditch or ditches, drain or drains, and prong or prongs of said ditch or ditches, as the said commissioners by their return as aforesaid shall direct to be cut and opened, or cause the same to be done, and cause the same to be kept open and in good repair, and generally the managers shall carry into full effect all the directions of the company from time to time given them in relation to their said trust, for which purpose the said managers shall have power to employ such workmen as they may deem necessary to complete the work assigned to them at the common expense of the company, and all the wages and expenses in and about said work shall be paid by orders drawn by the managers on the treasurer; every order shall specify the services, wages, or expenses for which it is drawn, and an exact account shall be kept by the managers for all orders drawn by them, specifying the services or expenses for which each order was drawn, and said accounts shall be laid before the annual meeting of said company, as the said company may direct. Each manager, before he enters upon the duties assigned him by the requirements of this act, shall be sworn or affirmed, before some justice of the peace of Kent county, to perform the same faithfully and impartially according to the best of his skill and judgment, of which oath or affirmation a certificate of the same, under the hand or hands of the person or persons making it, shall be returned to the secretary, to be by him recorded in the books of said company.

To be final.

Duties of managers.

To employ workmen.

Wages and expenses, how paid.

Account of orders.

Oath of managers

Certificate of to be returned to Secretary, and recorded.

SECTION 7. *And be it further enacted,* That the treasurer for the time being, and every treasurer for the time being, before he enters upon the duties of his office, shall give bond, with surety or sureties to be approved by the managers for the time being, to and for the use of the company by name, upon condition to be void if he shall pay all orders drawn on him by the managers for the time being, so far as he shall have funds in his hands for that purpose, and shall well and truly account for all money that shall come into his hands as such treasurer at any annual or other meeting of said company, or otherwise, as the said company may direct, and shall pay over any balance or sum that shall be due to his successor in office, and shall perform all the duties of his office with fidelity.

Treasurer to give bond.

Condition.

SECTION 8. *And be it further enacted,* That the said managers, when they lay and assess taxes, shall appoint the time for the payment of the same, and it shall be the duty of the taxables

Payment of Taxes

DITCH COMPANIES.

respectively to pay to the treasurer of said company for the time being the sum or sums levied and assessed as aforesaid at the time appointed by said managers as aforesaid for such payment, and in case of negligence or non-payment as before directed, the treasurer, and every treasurer for the time being, shall have full power and authority to demand and receive, levy and make all and every the tax or taxes which shall be levied and assessed in pursuance of this act by the managers, according to the list of assessments delivered to such treasurer by the said managers, in the same manner and by the same means as is prescribed by law for the recovery of county rates; and every treasurer for the time being shall have power in the same manner to collect all taxes upon any list delivered to any former treasurer any time within five years after the same shall have been due and payable.

Treasurer's power to collect.

Records of the company

SECTION 9. *And be it further enacted,* That the secretary shall procure a certified copy of this act from the Secretary of State and record the same among the records of said company, and record the certificate to be delivered to him by the commissioners as aforesaid, and the lists delivered to him from time to time by the managers, and all other proceedings of said company which they shall direct to be recorded, in a suitable book which said secretary shall provide for that purpose, and he properly file all papers belonging to said company which shall come to his hands, and the same shall be a public record for the company to examine at any time under the supervision of said secretary, and he shall deliver all papers and records of the said company which may be in his hands to his successor in office when demanded, and shall be paid by the treasurer of said company the amount of all fees he may have to pay in procuring the aforesaid copy of this act and a suitable book in which to record the same, and a reasonable compensation for his trouble in procuring the same; and every secretary for the time being shall receive one cent for every twelve words recorded by him for said company, and every commissioner shall receive two dollars for each and every days' service, and every manager a sum not exceeding two dollars for each and every days' service (to be fixed by a majority of the votes cast at each annual meeting,) in which he or they shall be employed about the business of the said company, and every treasurer shall be allowed a commission not exceeding five per centum (to be fixed by a majority of the votes cast at each annual meeting,) on all moneys by him collected, except moneys paid to him by his predecessor in office. All expenses attending the passage of this act shall be paid by the managers out of the funds of the company by orders upon the treasurer.

Secretary's duties.

Fees.

Compensation of Treasurer.

Expenses of passing the act, how borne.

DITCH COMPANIES.

SECTION 10. *And be it further enacted,* That suits may be brought and prosecuted in the name of the said "The Maidstone Branch Ditch Company" upon any bond given to the said company, or for any damage done to the ditch or ditches, drain or drains of said company.

Suits brought in name of company.

SECTION 11. *And be it further enacted,* That if any person or persons shall wilfully fill up or obstruct the ditch or ditches, drain or drains of said company, or shall wilfully obstruct or impede the course of the water from running down the same, every person so offending shall be liable to pay to the treasurer of said company, or his successor in office, for the use of said company, the sum of one hundred dollars, to be recovered by said treasurer by suit in the name of the said company before the Superior Court of the State of Delaware in and for Kent county, or before any justice of the peace in and for said Kent county.

Penalty for injuries to works of the company.

SECTION 12. *And be it further enacted,* That every owner of swamp or low grounds rateable and assessed by virtue of this act shall, from time to time, have the right and privilege to discharge the water from their respective lands into the ditches or drains of the company, by ditches or drains to be cut and opened through the swamp or low grounds of other owners or possessors, in such place or places, and of such width and depth as the commissioners for the time being shall lay out and prescribe; such owners or possessors shall contribute such portion of the expenses of cutting, opening and keeping open said ditch or ditches as the commissioners shall direct, to be recovered in the same manner as is hereinbefore provided for the recovery of the damages for filling up or obstructing ditches or drains; and the commissioners so laying out said ditch or ditches shall make return of all their proceedings in and about the said service to the secretary of the said company, to be by him recorded; and such owners and possessors to whom such ditch or ditches will be advantageous, shall pay to each commissioner so employed the sum of two dollars for each and every days' service in laying out said ditch or ditches, and pay to the secretary one cent for every twelve words for recording the same. Every owner or owners shall have free privilege to cut, open and keep in repair any ditch or ditches through his, her, or their own swamp or low ground into any ditch or ditches of said company.

Right of drainage. Expenses. Return. Pay of commissioners and Secretary.

SECTION 13. *And be it further enacted,* That the election to be held under this act on the last Saturday in March next shall be conducted by and under the government of the commissioners named in the third section of this act, and said commissioners shall exhibit at said meeting the certificate of their proceedings under this act, accompanied by a plot of said ditch or ditches,

Elections. When held. Who to conduct. Exhibits of commissioners; Plot.

drain or drains, and the lateral branches thereof, made by a skillful surveyor by them named, and who shall have been sworn by one of said commissioners to make a true and faithful plot of said ditch or ditches, drain or drains, and the lateral branches thereof. The expense attending the survey and plot of said ditch or ditches, drain or drains, and the lateral branches thereof, shall be allowed and approved by said commissioners and paid out of the treasury of said company.

Public act. SECTION 14. *And be it further enacted,* That this act shall be deemed and taken to be a public act.

Passed at Dover, March 11, 1869.

CHAPTER 509.

ST. JONES' BRANCH DITCH COMPANY.

12 Vol. 35. *An Act to amend an act entitled, "An Act to incorporate the St. Jones' Branch Ditch Company."*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the word "first," in the ninth line of the fifth section of said act, occurring between the words "the" and "Saturday," in said line, be stricken out and the word "third" be inserted in lieu thereof.

Sec. 5. Chap. 25 amended. How.

Passed at Dover, April 8, 1869.

CHAPTER 510.

CEDAR CREEK NAVIGATION COMPANY.

Current Vol. 591. *Supplement to the act entitled, "An Act to incorporate the Cedar Creek Navigation Company," passed at Dover, the twenty-third day of February, in the year of our Lord one thousand eight hundred and sixty-nine.*

Drawbridge authorized. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Levy Court and Court of Appeals of Sussex county be and

they are hereby authorized and empowered to make or build a drawbridge across the ditch or canal of the said company, or to make an appropriation or appropriations for the same to the said company: *Provided*, that nothing herein contained shall be construed to render it obligatory upon the said Levy Court and Court of Appeals to build the said bridge or make the appropriations aforesaid, but it shall be at the sole discretion of the said Levy Court whether they shall or shall not make the appropriations aforesaid.

Passed at Dover, April 8, 1869.

CHAPTER 511.

LA FAYETTE LODGE NO. 2, KNIGHTS OF PYTHIAS OF THE STATE OF DELAWARE.

An Act to incorporate Lafayette Lodge, No. 2, Knights of Pythias, of the State of Delaware, in the City of Wilmington.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of the members of each branch thereof concurring)*, That James E. Reynolds, John Wright, Robert White, Aquilla Nebecker, Samuel K. Cloud, Abner P. Bailey, Henry M. Lewis, Jerome B. Clark, Ferdinand Chairs, and such other persons as now are or hereafter may become members of Lafayette Lodge, No. 2, K. of P., located in the City of Wilmington, in New Castle county, State of Delaware, shall be by virtue of this act one body politic and corporate in fact and law, and shall have continuance and succession for twenty years by the name, style and title of Lafayette Lodge, No. 2, of the Order Knights of Pythias, of the State of Delaware, in the City of Wilmington. Incorporation. Name.

SECTION 2. *And be it further enacted*, That the said corporation and their successors during the term of their corporate existence shall be able and capable in law to purchase, take, receive, and hold any lands, tenements, hereditaments, rents, leases, stocks, goods and chattels, bonds, notes, mortgages or money, or any Corporate powers.

property whatsoever which may be devised, given or conveyed to or received by the payment of fees, dues and fines, and also to grant, sell, let, bestow, assign or transfer the same, and to do all other matters relating thereto, by the name and title aforesaid, and shall have a common seal, with authority to break, alter or renew the same at pleasure, may sue and be sued, plead and be impleaded in any court of law or equity in this State and elsewhere, in any or all manner of actions, suits, complaints, pleas, causes and matters whatsoever.

Election of officers.

SECTION 3. *And be it further enacted,* That the members of this corporation shall have power to appoint or elect such officers as they shall deem necessary and proper to conduct the business of said corporation, and properly to manage its affairs conformable to the provisions of this act and to the by-laws of the said corporation, and from time to time to make and establish such by-laws and rules as they shall deem proper and necessary for the good government thereof, provided such by-laws and rules be not contrary to the laws and constitution of this State or of the United States.

By-laws.

Limit on company's right to hold property.

SECTION 4. *And be it further enacted,* That the said corporation shall not have power to hold or possess in any manner goods, chattels, rights, credits, lands or tenements, or any other property the clear yearly income of which shall exceed the sum of five thousand dollars, and shall not possess any banking powers other than the lending of money on security for permanent investment.

Public act.

SECTION 5. *And be it further enacted,* That this act shall be deemed and taken to be public, and the power to revoke this charter at any time is hereby reserved to this Legislature.

Passed at Dover, January 19, 1869.

GENERAL CORPORATIONS.

CHAPTER 512.

SOLDIERS' AND SAILORS' MONUMENT ASSOCIATION OF DELAWARE.

An Act to incorporate the Soldiers' and Sailors' Monument Association of Delaware.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring herein),

SECTION 1. That Henry Du Pont, Alfred T. A. Torbert, Joshua S. Valentine, Evan C. Stotsenburg, George Z. Tybout, John Jones, William D. Nolan, Arthur H. Grimshaw, Frank A. Taylor, James Lewis, Albert S. Nones and Joseph S. Wheeler, and such persons as are now or may hereafter be associated with them and their successors, are hereby declared a body corporated under the name of The Soldiers' and Sailors' Monument Association of Delaware, and by that name shall have perpetual succession, with power to sue and be sued, plead and be impleaded in all courts of law and equity, to have and use a common seal, and the same to alter and renew at pleasure, to take, hold, bargain, sell, alien, demise, lease and convey lands, tenements, hereditaments, goods, chattels and effects of any kind whatsoever, to ordain by-laws not inconsistent with the constitution and laws of the United States or of this State, and generally to exercise and enjoy all the rights and privileges of a corporation aggregate except banking powers. Commissioners. Corporate name. Powers.

SECTION 2. The corporation shall be organized at such time as the corporators, or a majority of them, may designate, and upon its organization the members may elect such officers and transact such business as may be necessary to carry out the purpose of the association. Organization.

SECTION 3. This act shall be deemed a public act, and shall be published as such, and the right to revoke the same is hereby reserved to the Legislature. Public act.

Passed at Dover, February 18, 1869.

GENERAL CORPORATIONS.

CHAPTER 513.

DELAWARE COLLEGE.

An Act to Reincorporate Delaware College and amend the Charter thereof.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring),

College reincorporated

SECTION 1. That Delaware College, at Newark, reincorporated by act of February 10th, A. D. 1851, for a period of twenty years, be and the same is hereby recognized and reincorporated as a college for another period of twenty years from and after the 10th of February, A. D. 1871.

Object of corporation.

SECTION 2. The leading object of said college shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to Agriculture and the Mechanic Arts, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

Board of Trustees.

SECTION 3. The board of trustees of said college shall consist of thirty members, together with the Governor of the State and the president of the college, who shall be members *ex-officio*, one-half of whom shall be appointed by the Governor, who shall fill vacancies which may hereafter occur in their number, and the other half shall be appointed by the remaining members of the present board, who shall have power to fill vacancies occurring in their number; and the joint board so constituted shall have the entire control and management of the affairs of the college, with power to appoint and remove all subordinate officers and agents, and to make by-laws as well for their own government as that of the college.

Meetings of board.

SECTION 4. There shall be two stated meetings of the board every year at such time and place as may be fixed by the by-laws, and occasional meetings may be held on the call of the president, which he may make at discretion, and shall make, on the written request of any two or more members of the board of trustees. The secretary of the board shall give two weeks'

written notice of all meetings, and the time, place and purpose of occasional meetings shall be stated in the notice thereof, and the proceedings of such meetings shall be confined strictly to the purpose stated therein. Notice.

SECTION 5. Nine members of the board shall constitute a quorum to do business, but a less number may adjourn. Officers may be appointed for the occasion in the absence of the regular officers. The place of a trustee, who shall be absent from three successive stated meetings, shall be vacated unless the board shall otherwise specially direct, and a vacancy thus created shall be filled as in other cases. And a trustee appointed and not accepting at or before the next stated meeting shall be considered as declining, and a new appointment made. Quorum of board. When the place of trustee may be vacated.

SECTION 6. The trustees, as ascertained and limited by this act, shall continue to be a corporation by the name of The Trustees of Delaware College, with all the powers and franchises incident to such an institution, including the capacity to take and hold real and personal estate not exceeding in annual value fifty thousand dollars by deed, devise, bequest, gift, grant, or otherwise, and the same to alien, sell, transfer and dispose of as occasion may require, and the proceeds thereof to reinvest in other property, funds, or securities for the benefit of said college, and in accordance with the spirit and purpose of this act. Corporate name. Powers.

SECTION 7. The faculty, consisting of the professors and tutors employed by the board of trustees, one of whom shall be president of the college, shall have the care, control, government and instruction of the students, subject, however, to the by-laws. They shall have authority, with the approbation of the board of trustees, to confer degrees and grant diplomas. Faculty.

SECTION 8. The college fund, created by resolution of the General Assembly of January 28, 1824, and transferred by act of February 5, 1833, to "The Trustees of Newark College," and all other funds, stock, money, or property belonging to or appropriated for, or raised, paid, or payable to the Trustees of Delaware College, by that or any other name, shall be a part of the endowment of said college, and shall be held, appropriated and used as such by the said trustees. Endowment.

SECTION 9. Devises, bequests, gifts and grants to the corporation shall not be avoided by any misnomer if the description can be understood with reasonable certainty. And the corporation shall not be dissolved by non-user so long as there shall remain seven trustees. The Secretary of State shall transmit to the President of Delaware College, to be placed and kept in the library, a copy of all public documents of which he may receive Gifts, &c., not to be avoided. Library.

duplicates, whenever the same shall not have been already appropriated. This college shall never be managed or conducted in the interest of any party, sect or denomination, and the trustees of said college shall make a report of its condition to the Legislature at each regular biennial session.

Not to be sectarian.

Report to Legislature.

Penalty for selling liquor near College.

SECTION 10. If any person shall knowingly sell or dispose of any spirituous, vinous or fermented liquors within two miles of Delaware College to or be instrumental in procuring the same for any student of said college, the person so offending shall forfeit and pay for every such offence ten dollars, to be recovered as debts of like amount are recoverable by any person who will sue for the same, and to be paid one-half to the person suing and the other to the treasurer of the college for the use of the library.

Inconsistent acts repealed.

SECTION 11. All acts and parts of acts hereby superseded, or which are inconsistent herewith be and the same are hereby repealed.

Passed at Dover, February 17, 1869.

CHAPTER 514.

NEW CASTLE WATER WORKS COMPANY.

An Act to incorporate the New Castle Water Works Company.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring),

Commissioners.

SECTION 1. That Andrew C. Gray, John Janvier, James G. Shaw, William Herbert, Thomas T. Tasker, Allen V. Lesley,

GENERAL CORPORATIONS.

Joseph H. Rogers, Peter B. Vandever and William C. Spruance be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they, or a majority of them, shall procure and cause to be opened at such times and places and on such notice as they may deem proper, suitable books for subscriptions to the capital stock of the New Castle Water Works Company, and they shall permit all persons of lawful age to subscribe in said books in their own names or in the name or names of any other person or persons, corporation or corporations, authorizing the same, for any number of shares of said stock.

Books to be opened.

Who may subscribe.

SECTION 2. That when and as soon as five hundred shares of the capital stock of the said company shall be subscribed as aforesaid, the subscribers to the said stock, their successors and assigns, shall be and they are hereby declared to be incorporated by the name and title of the "New Castle Water Works Company," and by said name shall have perpetual succession, and be able to sue and be sued, plead and be impleaded in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors real and personal estate of every kind whatsoever, and the same to grant, mortgage, sell, alien, convey and dispose of, and to declare dividends of such portions of the profits of the company as they may deem proper; also to make and have a common seal, and the same to alter and renew at pleasure; and also to make and ordain by-laws and regulations for the government of the said corporation not inconsistent with the constitution and laws of the United States or of this State, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well being and ordering the same.

Incorporation.

Name.

Powers.

SECTION 3. That the commissioners aforesaid, as soon as conveniently may be after five hundred shares shall be subscribed as aforesaid, shall, after giving ten days' notice by handbills, posted in at least ten of the most public places in the town of New Castle, call a meeting of the said subscribers to organize the said company by the election of nine directors, who shall thereupon be invested with the control and management of said company and continue in office until the first Monday in January next thereafter and until their successors shall be chosen as hereinafter provided; and the stockholders of said company shall meet annually on the first Monday in January, in the town of New Castle, and elect nine directors for said company, and no person shall be elected a director as aforesaid who is not at the time of his election a stockholder in said company. All such elections shall be by ballot of the stockholders or their proxies,

Meeting of subscribers to organize company.

Annual meeting of Stockholders.

Qualifications of Directors.

Elections to be by ballot.

allowing one vote for each share which shall be held of the capital stock of said company.

Directors to elect President, Treasurer and Secretary. Vacancies.

SECTION 4. That the directors of said company shall elect from their own number a president, treasurer, and secretary of said company, and may appoint such other officers as they may deem proper, and any vacancy in said board of directors may be supplied by appointment, to be made by the said board, until the next annual election; and the said board of directors shall have power to make all by-laws that may be necessary for the government of said company, and they shall also have power to take from any treasurer, secretary, or other officer or agent appointed by them such security for the faithful performance of their respective duties as they may deem proper.

Powers of Directors.

Capital stock

SECTION 5. That the capital stock of said company shall be fifty thousand dollars, to be divided into five thousand shares of ten dollars each: *Provided*, that the said company may, from time to time, by a vote of the stockholders, at a meeting called for that purpose, increase the capital stock to a sum not exceeding one hundred thousand dollars: *and provided further*, that the holder of any bond or other evidence of the indebtedness of said company shall be entitled at any time to convert the same into the capital stock of said company, and upon the surrender thereof the said company shall issue therefor a certificate for such number of the shares of said stock as shall at par be equal to the amount of the indebtedness so surrendered, notwithstanding the capital stock of said company shall, by such conversion, exceed the sum of fifty thousand dollars.

Certificates.

Company may borrow money. Limit. Security.

SECTION 6. That the said company shall have the power from time to time to borrow money for the purposes of said company to an amount not exceeding in the aggregate the sum of one hundred thousand dollars, and to secure the payment of the same by bond, mortgage, pledge or pledges of the property and effects of said company.

Certificates to be delivered to owners of shares. How transferable.

SECTION 7. That the said company shall procure certificates of stock for all the shares of said company, and shall deliver one such certificate, signed by the president and treasurer, and sealed with the common seal of said company, to each person or corporation for the share or shares of stock owned by such person or corporation, which certificate of stock shall be transferable at the pleasure of the holder thereof, in person, or by attorney duly authorized, in the presence of the treasurer, in a book to be kept for that purpose.

Object of corporation.

SECTION 8. That the corporation hereby created shall have authority for supplying with water the town of New Castle and

vicinity, and for distributing and selling water, and making and erecting the necessary works for distributing and introducing water, and constructing the requisite buildings and machinery, with the right to use any of the public streets of said town, or the public roads in New Castle county, for the purpose of laying down the pipes necessary for the conducting of said water, and of repairing, altering and inspecting the same: *Provided*, that the public travel at no time be unnecessarily impeded by said company, and the said streets and roads shall be left in as good order and condition as before the laying of the said pipes. Proviso.

SECTION 9. That the said company shall have power to survey, locate and purchase such lands, waters, water-courses and rights of way within the limits of New Castle county as said company may deem necessary for the purpose of said company, and in case said company shall be unable to agree with the owner or owners for the purchase of such lands, waters, water-courses or rights of way as may be required for the purposes of this act, the Chief Justice of the State of Delaware shall, upon the written application of the president of said company, appoint five judicious and impartial freeholders of said county to view the premises and assess the damages which the said owner or owners will sustain by reason of the taking of said lands, waters, water-courses and rights of way for the use of said company. Before entering upon the premises the said freeholders shall be sworn or affirmed, before some judge, justice of the peace, or notary public, faithfully and impartially to perform the duty assigned them, and they shall give five days' written notice to the occupant or owner of said premises, if within this State, and the same notice to the president of said company of the time of their meeting upon the premises for the discharge of their duty. And the said freeholders, or a majority of them, shall certify their finding and award to both parties; whereupon the said company, on paying the damages so assessed, or depositing the same in the Farmers' Bank of the State of Delaware, at New Castle, to the credit of said owner or owners, shall become entitled to have, use and enjoy the said lands, waters, water-courses and rights of way for the purpose of said company forever. The expenses of the assessment of the said damages shall be paid by said company.

May purchase land &c., for use of company.

Freeholders to assess damages upon refusal of owners to sell.

Oath.

Notice.

SECTION 10. The board of directors of said company shall declare dividends of so much of the net profits of the company as shall appear to them advisable on the first Monday in January and July of each year, which shall be paid to the stockholders on demand ten days after the same shall have been declared.

Dividends.

SECTION 11. That if at any time an election of directors of said company shall not be had pursuant to the provisions of this

Failure to elect Directors.

act, the corporation shall not for that reason be dissolved, but it shall be lawful to hold such election at any time afterwards, on giving ten days' notice thereof, and the directors last elected shall continue in office until their successors shall be duly chosen.

Penalty for injury to works of company.

SECTION 12. That if any person or persons shall wilfully and intentionally damage any of the works, buildings, materials, pipes, or apparatus of said company, he, she, or they shall be liable to the company in a civil action for double the damages sustained, and shall moreover be guilty of a misdemeanor, and on indictment and conviction thereof shall be fined not exceeding three hundred dollars, at the discretion of the court.

Public act.

SECTION 13. That this act shall be deemed and taken to be a public act, and that this charter shall be deemed and held to be perpetual, subject, nevertheless, to the power of revocation for the misuse or abuse of its privileges by said company, which is hereby reserved to the Legislature.

Revocation.

Repeal of certain act.

SECTION 14. That the act entitled, "An Act to incorporate the New Castle Water Works Company," passed February 11, A. D. 1859, be and the same is hereby repealed.

Passed at Dover, April 1, 1869.

CHAPTER 515.

TRUSTEES OF NEW CASTLE COMMON.

2 Volume, 1026.

A Supplement to an act entitled, "An Act to enlarge the corporate powers of the Trustees of the New Castle Common," passed January 25, 1792.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring),

Trustees may subscribe to and hold certain stock.

SECTION 1. That the Trustees of the New Castle Common are hereby authorized and empowered to subscribe to and hold the capital stock or loan of any company which has been or may be incorporated for the purpose of supplying the town of New

Castle with water, or to guarantee the bonds of any such company to an amount not exceeding in the aggregate the sum of fifty thousand dollars, and for this purpose said trustees shall have power to mortgage or pledge the whole or any part of the lands known by the name of The New Castle Common, or the rents, issues and profits thereof in fee simple, or for any less estate or term.

Amount.

May mortgage Common.

SECTION 2. That such parts of the said act to which this is a supplement as are inconsistent with this act are hereby repealed.

Inconsistent laws repealed.

SECTION 3. That this act shall have no force or effect whatever unless the Trustees of the New Castle Common shall, within one year from the passage of this act, certify to the Governor of this State their acceptance thereof under the hand of the president and the seal of said corporation.

Acceptance of act.

Passed at Dover, March 30, 1869.

The original act to which the foregoing is a Supplement, is a private act, yet as it has relation to the act incorporating a company to supply New Castle with water, which has been published, it is deemed expedient to publish this also.

CUSTIS W. WRIGHT, Secretary of State.

CHAPTER 516.

DELAWARE ASSOCIATION FOR CRIMINAL REFORM.

An Act to Incorporate "The Delaware Association for Criminal Reform."

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of each branch of the Legislature concurring therein):

SECTION 1. That Henry F. Askew, M. D., Jesse Sharp, Thos. F. Bayard, Benj. Nields, John Merritt, M. D., W. C. Spruance, T. C. Taylor, L. P. Bush, M. D., W. S. McCaulley, G. C. Maris, Isaac Jump, M. D., J. Alex. Fulton, C. H. Richards, M. D., C. S. Layton, and all who shall contribute to the support of the said corporation, as provided in Section 2, be and they are hereby

Incorporation.

GENERAL CORPORATIONS.

Name. incorporated and made a body politic in law, under the name and title of "The Delaware Association for Criminal Reform," and by that name shall have succession for twenty years; and they shall be and they are hereby made able and capable in law

Powers. to have, take, purchase, receive, possess and retain to them and their successors, for the use and lawful objects of the corporation, any estate, real or personal; *Provided*, that the annual income of the entire estate held shall not exceed ten thousand dollars, and the same to sell, grant, demise, alien, or dispose of; to make contracts relative to the objects of this incorporation; to sue and be sued, implead and be impleaded in all courts of law and equity; to have a common seal, and the same to alter at pleasure; to establish by-laws and rules for the regulation of said corporation, provided the same be not repugnant to the constitution and laws of the United States and of this State, and generally to have the privileges and franchises incident to a corporation or body politic.

Membership SECTION 2. Every person who shall pay to the said corporation the sum of twenty-five dollars, or five dollars annually, for the term of six years, shall become a member thereof, during its existence as a corporation, and every person paying the sum of one dollar annually shall be a member while he continues to contribute the said sum, such payments to be made at the time and in the manner to be prescribed in the by-laws of said corporation.

Board of Managers. SECTION 3. The estate and concerns of the said corporation shall be managed by a board of twenty-one managers, of whom

Quorum. four shall constitute a quorum for the transaction of business.

Meeting. The corporation shall meet in the City of Wilmington, on the second Thursday of March next, after the passage of this act, or as soon thereafter as practicable, and shall, from their number, elect twenty-one managers, seven of whom shall be residents of Sussex county, seven of Kent county, and seven of New Castle county, to serve until the second Thursday of March, 1870, on which latter day, and on every succeeding second Thursday of March, the members of the corporation shall hold a meeting for the election of managers for the ensuing year, at such place as the annual meeting may appoint, and managers elected as aforesaid shall continue to be such until their successors are chosen.

Vacancies. Any vacancy in the office of managers shall be filled until the next election by the board of managers, who shall select some

Officers. member of the corporation. The board shall, out of their own body, appoint a president, four vice presidents, a treasurer and secretaries.

Object of corporation. SECTION 4. The said corporation shall have power to visit and inspect prisons throughout the State, and recommend to any

State, county, or city officer, or to the Levy Court, or General Assembly, regulations relative to prisons, and to the religious and moral instruction, employment, discipline, government, punishment, safe keeping, and the disposition of the inmates, as it may deem expedient and proper; may appoint such officers and agents as may be deemed necessary to transact the business of the said corporation, and may prescribe their duties.

SECTION 5. The estate, real and personal, of the said corporation, used for the purpose of its incorporation, shall be free from State, county and city tax. Corporate property not to be taxed.

SECTION 6. This act shall be deemed and taken to be a public act, and shall be published with other laws of this State. Public act.

Passed at Dover, March 9, 1869.

CHAPTER 517.

NEWPORT BUILDING AND LOAN ASSOCIATION;

An Act to incorporate the Newport Building and Loan Association.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring therein)*, That James Cranston, Henry L. Churchman, Joseph W. H. Watson, Alexander Irons, Robert C. Istice, John A. Cranston, Daniel Green and John W. R. Killgore, and such other persons as now are or may hereafter be associated with them, shall be and they are hereby created a a body politic and corporate by name, style and title of "The Newport Building and Loan Association," for the purpose of accumulating a fund from monthly contributions and fines, premiums on loans and interest on investments for the mutual benefit of its members; and they and their successors are hereby ordained and declared a body politic and corporate in fact and in law, and by the title aforesaid shall be able and capable in law to sue and be sued, plead and be impleaded in any courts of law Incorporation. Name. Powers.

or equity in this State and elsewhere, in all manner of suits, complaints, pleas, causes, matters and demands whatsoever, with all the legal incidents of a corporation; and the said corporation may have and use a common seal, and at their pleasure alter and renew the same, and by the title aforesaid shall have continuance and succession for a term not exceeding twenty years from and after the passage of this act.

Officers.

SECTION 2. *And be it further enacted,* That the affairs of said corporation shall be conducted by a president, vice president, secretary, treasurer, and nine directors, seven of whom shall be a quorum. At the first meeting after the passage of this act there shall be elected a president, vice president, and treasurer, (who shall be elected annually,) and nine directors, (who shall meet and divide themselves into three classes, for one, two and three years,) and at every annual meeting thereafter three directors shall be elected to serve three years. The secretary shall be elected annually by the board. The board shall have power to fill all vacancies that may occur in their own body during the year.

Election of officers.

Secretary.

Vacancies.

Powers.

SECTION 3. *And be it further enacted,* That the said corporation shall by name and title aforesaid be able and capable of purchasing, receiving, having, holding and enjoying to them and their successors and assigns, lands, tenements, hereditaments, annuities, moneys, securities, goods and chattels of what nature or kind soever, real, personal and mixed: *Provided,* that the same shall not exceed the sum or value of three hundred thousand dollars; and the same from time to time, at their pleasure, to sell, grant, demise, bargain, alien and dispose of; also to make such laws, rules, contracts and regulations, and the same to alter, amend or repeal, as they and their successors shall deem proper and expedient for the good government and management of the affairs or business of said corporation, and generally to do all and singular the matters and things proper for the well being of said corporation: *Provided,* that the same shall not be inconsistent with this act, the constitution and laws of the United States or of the State of Delaware, and that nothing herein contained shall confer upon said association or corporation any banking powers or privileges whatsoever.

Limitation of property.

Banking powers prohibited.

Accumulated funds, how disposed of.

SECTION 4. *And be it further enacted,* That the funds of the association, as they accumulate in the treasury, shall be offered and loaned by the board of directors to the highest bidder among the stockholders. In case no stockholder offers to borrow said funds at six (6) per cent., then the directors shall have power to loan to persons not members of the association at a rate of interest not exceeding six (6) per cent. per annum.

CONCERNING ROADS.

SECTION 5. *And be it further enacted,* That this act shall be deemed and taken to be a private act, and on payment of the sum of twenty dollars to the Secretary of State, shall be published by him among the laws of this State, passed at the present session, and the power to revoke the same is hereby reserved to the Legislature. Publication. Revocation.

Passed at Dover, April 6, 1869.

CHAPTER 518.

CHANGE OF PUBLIC ROAD AUTHORIZED.

SEC. 1. Nathaniel B. Smithers authorized to change a public road.
SEC. 2. When the old road may be closed.

An Act to authorize the Change of a Road in Dover Hundred.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That Nathaniel B. Smithers is hereby authorized to change the course of the road from Dover to Hazlettville, as now used, so that the same instead of running across his lands as now shall run over the said lands along the line of said lands and lands now occupied by Hugh Elgin. N. B. Smithers authorized to change a public road.

SECTION 2. That when the said Nathaniel B. Smithers shall, at his expense, have made the said change and opened the road hereby authorized of the width of thirty feet, and put the same in good order for travel of the width required for public roads in Kent county, it shall be lawful for him to enclose his lands so as to shut up the ways thereover now used, and the road so opened in conformity herewith shall be deemed a public road of Kent county. When the old road may be closed.

Passed at Dover, January 22, 1869.

CONCERNING ROADS.

CHAPTER 519.

FENCING A PART OF A PUBLIC ROAD AUTHORIZED.

An Act to authorize William B. Records to Enclose a Ditch adjoining his lands on the south side of the Public Road, in Sussex County, leading from Mt. Pleasant M. E. Church to Sharpstown.

Wm. B. Records authorized to fence part of road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for William B. Records, of Little Creek hundred, Sussex county, and State of Delaware, his heirs and assigns, to enclose by a fence or fences, within the line of his lands, a ditch now adjoining the lands of the said William B. Records and located on the south side of the public road, in Sussex county, leading from Mt. Pleasant M. E. Church to Sharpstown: *Provided, however,* that the said William B. Records, his heirs and assigns, shall make the said public road, after enclosing the said ditch, the same width that it now is, by extending said road on the north side as many feet as he shall take from the south side thereof by enclosing said ditch.

Width.

Courses of said road.

SECTION 2. *And be it further enacted,* That the courses and distances of the said public road, after the same shall be changed by the said William B. Records, his heirs and assigns, pursuant to the provisions of the foregoing section, shall thenceforth be deemed and taken to be the lawful and proper courses and distances of the said public road, instead of the courses and distances thereof before the same was so changed and altered as aforesaid.

Passed at Dover, February 2, 1869.

CHAPTER 520.

CHANGE OF PUBLIC ROAD AUTHORIZED.

An Act Authorizing David S. Wilds to Straighten a Certain Public Road.

D. S. Wilds authorized to straighten public road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That David S. Wilds, of Duck Creek hundred, in Kent county, be and

he is hereby authorized, he doing the same at his own expense, to straighten the public road in said hundred leading from Wilds' Corner to Kenton by opening a new one upon his own land and preparing the same for travel; and that when he shall have performed the said act, and the new road is, in all respects, as good for public use as the other parts of the aforesaid highway, he may close up and vacate that part of the old road supplied by the new one, and after such closure the old road, so shut up, shall be deemed and held to be vacated, and the soil thereof shall pass to the said David S. Wilds, as his own inheritance in fee simple.

When old road may be closed.

SECTION 2. *And be it further enacted.* That the aforesaid new road, when completed as aforesaid for public travel, shall be deemed and taken to be a part of the public road or highway from Wilds' Corner to Kenton aforesaid, and be treated as such by the Levy Court of Kent county.

When new road made shall be adopted.

Passed at Dover, February 3, 1869.

CHAPTER 521.

PUBLIC ROAD AUTHORIZED.

An Act authorizing the Laying Out of a Public Road in Murderkill Hundred.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That James K. Burnite, James G. Jester, Jacob Friedell, William M. Warner and Nathaniel P. Luff be and they are hereby appointed commissioners to go upon and view the premises and determine whether there is need of a new public road in Murderkill hundred, commencing at a point on the road leading from Burnite's store, in the town of Felton, to the Canterbury and Berrytown road, on the land of Sarah M. Simpson, opposite High street, in the aforesaid town of Felton, and running thence through said lands of Sarah M. Simpson, through land of John

Commissioners appointed.

Location.

Bailey, and land of James B. Conner, and intersecting the road leading from Felton to Berrytown, between the house of Henry Diffenderfer and the house of Nathaniel Bostic; and if the aforesaid commissioners, or a majority of them, shall determine that there is need of a new public road, as above mentioned, then they shall, with the assistance of some skillful surveyor, to be by them employed, lay out such public road as shall be most proper, having respect to the nature of the ground, the shortness of the distance, and all circumstances of public or private convenience or detriment, and shall cause a plot of said road to be made, representing the courses and distances thereof, and shall assess any damage which may accrue to the owner or owners of the lands through which the said public road shall pass, taking into consideration all the circumstances of benefit as well as injury which will accrue to each of the owners, and shall make a computation of the cost of opening and making said public road, and making the bridges and causeways thereon, if any, setting down the several items of said cost, and shall, in their return, set forth a description of the said public road and their determination that there is need of the same for public convenience, and shall annex to their return the aforementioned plot.

Surveyor.

Plot.

Computation of costs.

Return to be annexed to plot.

Return and plot to be laid before Levy Court.

SECTION 2. *And be it further enacted,* That the plot and returns so to be made as aforesaid by the said commissioners, or a majority of them, shall be returned to the Clerk of the Peace in and for Kent county, to be by him laid before the Levy Court of said county, and the same shall be a public road when accepted by the Levy Court of Kent county as such.

Commissioners and Surveyor to be sworn.

SECTION 3. *And be it further enacted,* That the aforesaid James K. Burnite, James G. Jester, Jacob Friedell, William M. Warner and Nathaniel P. Luff, and the surveyor employed by them, shall, before performing the duties herein assigned them, be sworn or affirmed to perform the duties incumbent upon them under this act faithfully and impartially, according to the best of their skill and judgment respectively, and for such service they shall receive the sum of one dollar each for each day they may be engaged in the aforesaid duties.

Compensation.

When to be a public road.

SECTION 4. *And be it further enacted,* That the road hereby authorized shall, from its adoption by the Levy Court aforesaid, be deemed and be taken to be a public road, and the laws applicable to public roads in Kent county are hereby extended to and shall apply to said road.

Public act.

SECTION 5. *And be it further enacted,* That this act shall be deemed and taken to be a public act.

Passed at Dover, February 3, 1869.

CONCERNING ROADS.

CHAPTER 522.

PUBLIC ROAD AUTHORIZED.

An Act to amend an act entitled "An Act to authorize Curtis W. Jacobs to make a Public Road." and for other purposes. Current Vol. 65.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Section 2 of Chapter 56 of the 13th Volume of Delaware Laws be and the same is hereby amended by striking out the name of Captain James Bishop, in the third line of said section, and inserting in lieu thereof the name of John M. Houston, and that the same be and is hereby further amended by inserting in the fifth line of the said section, after the word "they," and before the word "find," the words "or a majority of them shall." Sec. 2, Chap. 56, amended. New viewer appointed.

Passed at Dover, February 5, 1869.

CHAPTER 523.

CHANGE IN PUBLIC ROAD AUTHORIZED.

An Act to authorize the Trustees of Wesley Methodist Episcopal Church, near Dover, to Vacate a part of Forest Street, in the Town of Dover, in Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That "The Trustees of Wesley Methodist Episcopal Church, near Dover," be and they are hereby authorized and enabled to vacate and close up all that part of Forest street, in said town of Dover, in Kent county, which lies between Queen street and Loockerman street in the said town of Dover. Certain part of Forest Street, in Dover, to be closed.

Passed at Dover, February 17, 1869.

CONCERNING ROADS.

CHAPTER 524.

PUBLIC ROAD AUTHORIZED.

An Act to authorize the making and opening a new Public Road in Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William Sapp, William Powell, William L. Masten, James Porter, junior, and James Hopkins, five judicious and impartial freeholders, be and they are hereby appointed to go upon and view the premises and determine whether there is need of a public road to begin at the end of a public road leading from the Frederica road, by the parsonage at Harrington, on land of George W. Dorman's heirs, and to run from thence through lands of the said George W. Dorman's heirs and lands of Jehu Tharp till it strikes Robert H. Short's land, thence through lands of Thomas Harrington, lands of Fleming and Harrington, and lands of William Ward, to intersect a public road leading from Masten's Church to William L. Masten's, near Masten's School House, and if they, or a majority of them, shall determine that there is need of such a road, they shall, with the assistance of some skillful surveyor, to be by them selected, lay out such new public road as they may deem proper, having respect to the nature of the grounds, shortness of the distance, and all circumstances of public convenience, and shall cause a plot thereof to be made, representing the courses and distances thereof, with notes of the most remarkable places, and of the wood land, cleared land and improvements by and through which the same shall pass, and they shall assess the damages of every owner of said lands and improvements by reason of the laying out of said road, taking into consideration all the circumstances of benefit as well as injury which will accrue to each of the said owners of said land, and they shall make a computation of the costs of opening and making said road and making the bridges and causeways thereon, setting down the several items of said cost; and if a road shall be laid out shall, in the return to be made to the Clerk of the Peace in and for Kent county, set forth a description of said road and their determination that there is need of the same for public convenience, and shall annex to their said return the plot as aforesaid.

Commissioners appointed.

Location.

Surveyor to lay out road.

Damages.

Computation of costs.

Return.

CONCERNING ROADS.

SECTION 2. *Be it further enacted by the authority aforesaid,* That the plot and return so to be made as aforesaid by the said commissioners, shall be returned to the Clerk of the Peace in and for Kent county, to be by him laid before the Levy Court of said county, and the said Levy Court may adopt said road as a public road or highway, and settle such damages as may have been assessed, and when said road shall have been adopted as a public road by the said Levy Court, the same shall be and remain subject to the same regulations and laws as other public roads in said county.

Plot and return to be laid before Levy Court.

Levy Court may adopt.

SECTION 3. *Be it further enacted by the authority aforesaid,* That the said commissioners and surveyor, before performing their respective duties under this act, shall be sworn or affirmed to perform the same according to the best of their judgment and skill respectively, which oath may be administered by either of said commissioners, or by any public officer qualified to administer oaths. The acts of a majority of said commissioners shall be as valid as if concurred in by them all. In case of a vacancy or vacancies, another or others may be appointed commissioner or commissioners by any judge of this State. The fee of the commissioners, surveyor and chain-carriers shall be the same as provided by law for such services in case of laying out public roads and to be paid in like manner. The Levy Court aforesaid shall tax the surveyor's fees for the map and return.

Commissioners and Surveyor to be sworn.

By whom.

Acts of majority valid.

Vacancies.

Fees.

Surveyor's fees.

SECTION 4. *Be it further enacted by the authority aforesaid,* That this act shall be deemed and taken to be a public act.

Public act.

Passed at Dover, February 18, 1869.

CHAPTER 525.

CHANGE OF PUBLIC ROAD.

An Act to establish a Public Road, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following part of the road known as Old Road, leading from Milford to the new wharf, on Mispillion Creek, in Milford hun-

Certain road vacated.

dred, Kent county, to wit: Beginning at a stone set in said road where the same is crossed by the dividing line between lands of James Davis and the Potter estate, thence with said road upon the said estate north forty-eight degrees and thirty-nine minutes east thirty-seven perches, north sixty-seven degrees and nineteen minutes east one-hundred and sixty perches, north sixty-eight degrees and thirty-nine minutes east eighty perches and eight-tenths of a perch, and south forty-nine degrees east twenty-six perches to said creek, be and the same is hereby vacated and may be closed, and in lieu thereof the following, known as "Winsmore Road," now opened and traveled across the same estate, shall be deemed and taken as the public road, to wit: Commencing at the beginning stone aforesaid; thence south fifty-nine degrees and fifty-five minutes, east one hundred and twenty-six perches, to a new road lately opened to the same place.

New road adopted.

Passed at Dover, February 26, 1869.

CHAPTER 526.

PUBLIC ROADS IN SOUTH MILFORD.

An Act to amend the Act entitled, "An Act to enable the Citizens of the Town of South Milford, in Sussex County, to keep in repair the Public Roads in said Town and Vicinity," Passed March 2, 1855.

11 Vol., 319.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Chapter 290, Volume 11, of the Laws of the State of Delaware, passed at Dover, March 2d, 1855, be and the same is hereby amended in the first section thereof, by striking out all after the word "of," and before the word "dollars," in the seventh line of said first section, and inserting in lieu thereof the words "one hundred and fifty."

Sec. 1, Chap. 290 amended

How.

Passed at Dover, March 3, 1869.

CONCERNING ROADS.

CHAPTER 527.

PUBLIC ROAD VACATED.

An Act to Vacate a certain road in Little Creek Hundred, Kent County.

WHEREAS it has been represented to this General Assembly that a certain road in Little Creek hundred, Kent county, passing through lands of Charles C. Babbitt, has become useless and unnecessary; therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That so much of a certain road in Little Creek hundred, Kent county, Delaware, (commencing in the road leading from Leipsic to Cowgill's Corner, at the south-eastern corner of land of Charles C. Babbitt, and running thence through and upon his land by various courses and distances until it enters upon a strip of land belonging to John Alston), as runs upon the lands of the said Charles C. Babbitt, be and the same is hereby vacated, and the said Charles C. Babbitt is hereby authorized and empowered to close up the same and include within the limits of his farm such part of said road as may be upon his land. Charles C. Babbitt authorized to vacate certain part of a public road.

Passed at Dover, March 4, 1869.

CHAPTER 528.

CHANGE OF PUBLIC ROAD.

An act to authorize Thomas H. McIlvaine to Change a Certain Road in Kent County.

WHEREAS it has been represented to this General Assembly that Thomas H. McIlvaine, of South Murderkill hundred, in Kent county, is the owner of a certain tract of land situate in Preamble.

said hundred, near Tracy's Mills, partly heretofore covered with wood, but now cleared by the said Thomas H. McIlvaine, and that for neighborhood convenience a certain part of the said tract of land has been used as a road leading from Herring's school house (on the Canterbury road) to Tracy's Mill; and whereas it is represented that about five acres of the said tract of land is, by the said road, detached from the main tract in a long, triangular shape; and whereas it appears that it is a road not much used by the public, and that a road along the line of the said tract of land will be as beneficial to the public as the present road, and that the said Thomas H. McIlvaine wishes to enclose, cultivate and improve the same; therefore,

Enclosure.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for the said Thomas H. McIlvaine to enclose the said land cut off by the said road leading from Herring's school house to Tracy's Mill; *Provided,* the said Thomas H. McIlvaine shall first make a good road at his own expense, on his own land, along the line thereof, for the aforesaid public convenience.

New road to be made.

Passed at Dover, March 5, 1869.

CHAPTER 529.

ROADS IN DUCK CREEK HUNDRED.

Current Volume, 256.
Preamble.
SEC. 1. Levy Court to make appropriation.

Current Vol. 256.

A Supplement to the act entitled, "An Act authorizing the Laying Out of certain roads in Duck Creek Hundred, in Kent County."

Preamble.

WHEREAS in opening a certain road running parallel with the railroad from Smyrna to Smyrna Station, and from the Kenton road to the road leading from Smyrna Station to Millington, pursuant to the act to which this is a supplement, a certain lot of land, (about one hundred feet wide,) said to belong to James P. Lattomus, was represented to the commissioners named in said act to belong to other parties, and the name of said Lattomus is

therefore not found in the return of said commissioners, for which reason the said road could not be opened to its termination on the Millington road; and whereas the said Lattomus now consents that his lot, or so much thereof as may be necessary, may be taken for said road in consideration of the payment to him of the sum of one hundred dollars therefor; now, therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That an appropriation be made by the Levy Court and Court of Appeal of Kent county to Horace Spruance, commissioner by them appointed to open said new road, of the sum of one hundred dollars, to be paid by said commissioner to James P. Lattomus in full of all damages sustained by the owner or owners of the said lot of land, and upon the payment of said sum to said Lattomus and the delivery by him of a full acquittance therefor of all damages as aforesaid, the said commissioner shall forthwith proceed to open said road to the termination thereof, as described in the act to which this is a supplement. Levy Court to make appropriation

Passed at Dover, March 9, 1869.

CHAPTER 530.

CHANGE OF PUBLIC ROAD

An Act to Change the Location of a Public Road in Sussex County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Loxley R. Jacobs, Cannon Willey, John E. Rickards, Alex. Jones and John R. Rickards be and they are hereby appointed commissioners to go upon and view the premises and determine whether the location of a part of the public road, leading from Bridgeville to Marsh Hope Bridge, in North West Fork hundred, should be changed, and if they, or a majority of them, shall determine that there is need for an alteration of the location of Commissioners.

the said public road, they shall, with the assistance of some skillful surveyor, to be by them selected, go upon the said public road and make such alterations as they, or a majority of them, may deem proper, beginning in a long lane between the lands of John H. Vandingburgh and John Sorden, and running nearly the same direction or course of the said lane through lands of John Sorden and David S. Myers, until it intersects with the same aforesaid public road near the Delaware Railroad.

Course of new road.

Map and return.

SECTION 2. *And be it further enacted,* That the said commissioners shall make a map of the said public road by them altered or changed, showing the courses and distances, and shall assess the damages, if any, of every the owners and holders of land to be affected by the change or alteration of the said public road, and shall make said map, assessment of damages, and computation of costs part of their return, and shall return their proceedings to the Levy Court of Sussex county.

When to be a public road.

SECTION 3. *And be it further enacted,* That when the Levy Court aforesaid shall have approved of the said public road, as altered by the return of the said commissioners aforesaid, it then shall be deemed and taken to be a public county road, and the old part be vacated and may be enclosed by the owners and holders of the land.

Commissioners and Surveyor to be sworn.

SECTION 4. *And be it further enacted,* That the said commissioners and surveyor, before viewing the said premises, shall be sworn or affirmed, in due form of law, to perform the duties incumbent on them respectively by this act, with fidelity. Either of the said commissioners may administer the oath or affirmation to the others and the surveyor. A majority may do or determine any matter within the provisions of this act. The fees of the commissioners, surveyor and other expenses shall be the same as provided by law for altering public roads in Sussex county, and be paid in like manner.

Majority may act.

Compensation.

Passed at Dover, March 9, 1869.

CONCERNING ROADS.

CHAPTER 531.

CHANGE OF PUBLIC ROAD.

An Act to enable Jonathan A. Hearn to straighten and put in good order a Public Road on his own land at his own expense.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Jonathan A. Hearn be, and he is hereby authorized and empowered, at his own proper cost and charges, to straighten that portion of the public road leading from Laurel to Delmar, in Little Creek hundred in Sussex county, on his land, by beginning at a ditch on said road on said Hearn's land and running southward until it intersects the said public road at a point between the two tenant houses on said Hearn's land, and when the said road shall be straightened as aforesaid and put in good traveling order, thirty feet wide, and approved by the Levy Court Commissioner of Little Creek hundred, in Sussex county, then the same shall be a public road and kept in repair as other public roads in said county.

J. H. Hearn authorized to straighten road.

How.

SECTION 2. *Be it further enacted as aforesaid,* That whenever the said road is opened as aforesaid and approved by the said Levy Court Commissioner, then the said Jonathan A. Hearn shall have right and authority to enclose that portion of the said old road rendered useless and unnecessary by the opening of the said new road.

New road to be approved by Levy Court.

Enclosure of old road.

SECTION 3. *And be it enacted as aforesaid,* That this act shall be deemed a public act.

Public act.

Passed at Dover, March 16, 1869.

CONCERNING ROADS.

CHAPTER 532.

CHANGE OF ROAD IN SEAFORD.

An Act to authorize William J. Marsbank to open a New Street and to vacate a portion of an old street in the Town of Seaford, Sussex county, at his own expense.

W. J. Marsbank authorized to open street in Seaford.

Location of same.

Costs, how borne.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William J. Marsbank be and he is hereby authorized and empowered to lay out, open and make a new street in the town of Seaford, Sussex county, upon his own premises, leading from High street to the depot grounds of the Delaware Railroad Company, at his own cost and charges, and put the same in good order for the public use, then and from thenceforth the same shall be deemed and taken as one of the public streets of the said town of Seaford, and shall be kept and maintained in like manner as other public streets in the said town of Seaford are kept and maintained.

Authorized to enclose certain part of old street.

SECTION 2. *And be it further enacted,* That after the said street shall have been laid out, opened and made as aforesaid, it shall be lawful for the said William J. Marsbank to enclose and use for his private use so much of what is now known as "Cedar Lane" as shall be sixty-five feet in length from the foot or end thereof.

Passed at Dover, March 16, 1869.

CHAPTER 533.

CHANGE OF PUBLIC ROAD.

An Act to authorize Nathan J. Barwirk to Straighten a Public Road on his own Land, in North West Fork Hundred, Sussex County.

N. J. Barwick empowered to straighten road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Nathan J. Barwick be and he is hereby authorized and empowered to straighten, at his own expense, that portion of the public

road leading by said Nathan J. Barwick's residence to Greenwood, commencing at a bend in said road and running in a straight direction eastwardly, about three hundred yards, intersecting with a new road already laid out.

SECTION 2. *Be it further enacted by the authority aforesaid,* That the road so straightened shall be a public road, and that the old road shall be vacated whenever the said new road shall have been accepted by the Levy Court of Sussex county.

Public road. Vacated. Acceptance by Levy Court.

Passed at Dover, March 19, 1869.

CHAPTER 534.

ROADS IN NEWARK.

An Act Regulating Roads, Streets and Bridges in the Town of Newark.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,

SECTION 1. That the road commissioners of White Clay Creek hundred be and they are hereby directed to pay over to the commissioners of the town of Newark the sum of five hundred dollars per annum, out of the road taxes of said hundred, to be by them expended in repairing and maintaining in proper order the roads, streets and bridges within the limits of said town of Newark. The said town commissioners shall have the sole supervision of said roads, streets and bridges.

Road Commissioners to pay certain sum annually for benefit of roads, &c. Town Commissioners to have supervision.

SECTION 2. That the road commissioners of White Clay Creek hundred are exempt from all supervision or repairs of roads, streets and bridges within the limits of said town of Newark.

Road Commissioners exempt from supervision.

Passed at Dover, April 1, 1869.

ROADS—MISCELLANEOUS.

CHAPTER 535.

An Act to enable the Road Commissioners of Pencader Hundred, in New Castle County, to sell certain Railroad Stock belonging to said Hundred.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That J. W. Cooch, John Frazer and John D. Eliason, road commissioners of Pencader hundred, in New Castle county, be and they are hereby authorized to sell certain railroad stock belonging to said hundred.

Passed at Dover, April 7, 1869.

CHAPTER 536.

GREAT AND BEACH MARSHES.

12 Volume, 447.
SEC. 1. Commissioners appointed: Powers.
2 Proceeds, how applied.
SEC 2. Account of; Surplus: Term.
3. Sale of Timber.
4. Inconsistent laws repealed.

Supplement to the Act entitled, 'An Act appointing Commissioners of the Great and Beach Marshes," passed at Dover, February the 11*th, A. D.* 1864.

12 Vol. 447.

Commissioners appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William D. Waples, Edward D. Hitchens and Elihu I. Morris be and they are hereby appointed commissioners of the Great and Beach Marshes, Cape and Cape Marshes, near Lewes, in Sussex county, and are hereby invested with full and exclusive authority and control over said marshes, and may sell and dispose of the grass and hay thereof in the month of July in each and every year at public sale, giving notice, by advertisements posted in three of the most public places in Lewes and Rehoboth hundred, ten days before the day of sale, to the highest bidder or bidders for the same. The notices shall specify the time and place when and where the grass or hay will be sold.

Powers.

MISCELLANEOUS.

SECTION 2. *Be it enacted as aforesaid,* That the commissioners as aforesaid shall expend and apply the proceeds of the annual sales of the grass or hay, sold as aforesaid from said marshes, in aid of the navigation of what is commonly called Lewes Creek, and of the construction and repairs of bridges and necessary causeways on any public road which may be laid out from the Town of Lewes, across Canary Creek, over the public marsh to Broadkiln Creek, and to such other public improvements about Lewes as they may deem proper. The said commissioners shall keep an account of all moneys coming into their hands from the annual sales of the grass or hay, as aforesaid, and the expenditures of the same, and shall deliver over any surplus to their successors, to be chosen as hereinafter provided. They shall continue in office for two years, or until their successors shall be duly appointed by the Legislature. The acts of a majority shall be as valid and as binding as if concurred in by all.

Proceeds, how applied.

Account of.

Surplus.

Term.

SECTION 3. *Be it enacted as aforesaid,* That the commissioners herein appointed, and their successors, be and they are hereby authorized to sell the wood and timber on the Cape and Cape Marshes at any time, by and with the concurrence of a majority of said commissioners, and the proceeds shall be applied to the same uses as is herein provided for the proceeds of the sales of grass or hay.

Sale of Timber.

SECTION 4. *Be it enacted as aforesaid,* That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

Inconsistent laws repealed.

Passed at Dover, April 7, 1869.

CHAPTER 537.

GRANT OF PUBLIC LAND.

An Act to Grant a Portion of Public Land and Beach on the Bay Shore, near Lewes, to Reuben L. Fowler and Alvord A. Stone, for Certain Manufacturing Purposes.

WHEREAS it is represented to the Legislature that Reuben L. Fowler and Alvord A. Stone propose to erect a factory for the

Preamble.

MISCELLANEOUS.

manufacture of fish oil and fish guano on the public lands of this State, lying between the right bank or eastern side of Broadkiln Creek and the Delaware Bay, near Lewes, in Sussex county, and to expend some forty thousand dollars in the erection of the necessary buildings, the construction of wharves on the said creek, and in the purchase of the necesssary boilers and machinery, boats, nets and other appliances proper for the efficient prosecution of the business, and desire of the State so much of the public land, marsh and beach as is hereinafter designated, in that vicinity, for such purposes; therefore,

Lands granted.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the purpose of erecting such factory, wharves and buildings, and conducting and prosecuting the said business as proposed and represented by them, so much of the public land, marsh and beach as extends from the mouth of the Broadkiln Creek a half mile up said creek, and from the same initial point a half mile down the shore of said bay, and as also extends from the said creek on the western border of said tract of land, marsh and beach to the bay shore on the eastern border or boundary thereof, and to a straight line drawn from the terminus of the said tract on the eastern side of said creek in a north-easterly direction to the terminus of the same on the bay shore, as aforesaid, be and the same is hereby granted to the said Reuben L. Fowler and Alvord A. Stone, their heirs and assigns, as soon as they shall take possession of the same for the purposes aforesaid, and so long as they, or any of them, shall continue to conduct and prosecute the said business thereon, as aforesaid, and no longer, with authority to erect and construct wharves anywhere within the limits aforesaid on the said bay and creek, so that the same shall not unnecessarily obstruct or impede the navigation of the said creek or any tributary thereof; *Provided,* that the said lands and premises shall immediately revert to the State when the parties to whom these lands and premises are granted, their heirs or assigns, shall cease to prosecute the said business of manufacturing fish oil and fish guano on the lands and premises herein granted as aforesaid; *Provided further,* that nothing in this act contained shall be deemed or construed to abridge or impair, in any manner or degree, the custom, right, or privilege of the people of this State to fish as heretofore anywhere within the limits aforesaid in the said creek or bay, or upon the shores thereof; *And provided further,* that the Legislature hereby reserves the right to repeal this act, and revoke and forfeit the rights and privileges herein granted to the said Reuben L. Fowler and Alvord A. Stone upon abuse or misuse of the

Description.

To whom.

For what purposes.

When the lands shall revert.

Grant not to impair the right to fish.

Right of revocation.

grants and powers hereinbefore enumerated, and that the said Legislature shall be the sole judge of what constitutes such abuse or misuse.

SECTION 2. *And be it further enacted by the authority aforesaid,* That this shall be a public act, and be published as such. Public act.

Passed at Dover, March 19, 1867.*

*So enrolled.

CHAPTER 538.

TILGHMAN PROPERTY.

An Act in Regard to the Sale of the Tilghman Property.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Joseph P. Comegys, appointed by the Orphans' Court of Kent county to sell the respective interests of the minors in the real estate late of Edward Tilghman, deceased, situated in Kenton hundred, in said county, at public auction or vendue, may sell the same at private sale; *Provided always,* that the other parties in interest sell their respective shares at the same rate, and that the said Orphans' Court approve of the price obtained by him at such private sale for the said minors' interests respectively. Trustee may sell at private sale. Proviso.

SECTION 2. *And be it further enacted,* That it shall be no objection to the sale of such minors' interests that it was not made by the time of the proper return of the order, provided such sale be approved by the aforesaid Orphans' Court. Return.

Passed at Dover, April 5, 1869.

MISCELLANEOUS—CLAIMS.

CHAPTER 539.

TILGHMAN LAND.

An Act to Legalize the Proceedings now being had for the Sale of the Tilghman Land, and for other purposes.

No objection to sale, the return not being made at Sept. Term, 1869.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall be no objection to the sale of the Tilghman land now advertised to be made under an order of the Orphans' Court of Kent county, made at the September term, 1868, that the order of sale was not executed before and returned by the commencement of the March term, 1869, of said court, but confirmation, and all other acts with respect to the said sale, may and shall be made as in cases of due execution of orders of sale by trustees. This act and the act heretofore passed authorizing the sale of said land at private purchase, shall be public acts.

Public acts.

Passed at Dover, April 5, 1869.

CHAPTER 540.

PAYMENT OF CLAIMS.

An Act for the Payment of Claims against the State.

State Treasurer authorized to pay claims.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized to pay the following claims:

Wm. Herbert $850.00.

To William Herbert, late Sheriff of New Castle county, for service in executing requisition of the Governor of the State of Delaware on the Governor of the State of Kansas, for a certain William Waters, charged with crime of murder, and bringing said prisoner to the State of Delaware, eight hundred and fifty dollars, ($850.00.)

Wm. Herbert $150.00.

To William Herbert, late Sheriff of New Castle county, for service in serving requisition of the Governor of the State of Delaware on the Governor of the State of New York, for a certain Henry Austin, one hundred and fifty dollars, ($150.00.)

PAYMENT OF CLAIMS.

To James Kirk, for printing, two hundred and twenty-three dollars and thirty-eight cents, ($223.38.) Jas. Kirk, $223 38.

To Jenkins & Atkinson, for printing, two hundred and ten dollars, ($210.00.) Jenkins & Atkinson, $210.00.

To S. C. Letherbury, for attendance as Bailiff on Court of Errors and Appeals, twenty-five dollars and sixty-one cents, ($25.61.) S. C. Letherbury, $25.61.

To W. Fisk Townsend, for printing, twenty-nine dollars and fifty-five cents, ($29.55.) W. F. Townsend, $29.55.

To James B. Mahan, to printing an act to raise revenue, in the Milford Argus, one hundred and nine dollars and seventy-three cents, ($109.73.) J. B. Mahan, $109.73.

To Robert Lambden, Auditor of Accounts, for report, stationery, &c., one hundred and fifty dollars and fifty-two cents, ($150.52.) Robt. Lambden, $150.52.

George Vernon, advertising Auditor's notice, $5.00. Geo. Vernon, $5.00.

George Reuss, repairing and varnishing House furniture, $27.50. Geo. Reuss, $27.50.

B. Donoho, services as Clerk of Court of Errors and Appeals, $52.30. B. Donoho, $52.30.

E. D. Porter, Adjutant General, for two years, $250.00. E D. Porter, $250.00.

S. M. Collins, 17 days' attendance of Court of Errors and Appeals, $25.50. S. M. Collins $25.50.

S. M. Collins, for executing requisition of the Governor of Delaware upon the Governor of Pennsylvania, in case of William H. Johnson (n.), a fugitive from justice, together with expenses incurred in and about the execution thereof, $100.00. S. M. Collins $100.00.

S. M. Collins, for executing a requisition of the Governor of Delaware on the Governor of New Jersey, in the case of William Fox, a fugitive from justice, together with expenses incurred in the arrest of said William Fox, and other expenses incurred in and about the execution of said requisition, one hundred and thirty dollars, ($130.00.) S. M. Collins $130.00.

C. P. Johnson, bill of printing, $277.21. C. P. Johnson, $277.21.

Henry Eckel, bill of printing, $202.80. Henry Eckel $202.80.

Z. L. Butler, for putting down carpets, &c., in chambers, $25.00. Z. L. Butler, $25.00.

John S. Jester, C. P., for advertising list of licenses for 1868, in Mutual Friend, fifteen dollars, and Delawarean, printing blanks for use of State, seven dollars, $22.00. J. S. Jester, $22.00.

Passed at Dover, April 9, 1869.

RESOLUTIONS.

CHAPTER 541.

Joint Resolution to appoint a Joint Committee to wait on his Excellency the Governor.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a committee of two on the part of the Senate be appointed, to act jointly with a like committee on the part of the House, to wait on his excellency, the Governor, and inform him that a quorum of both houses of the Legislature are convened, duly organized, and ready to receive any communication he may see proper to make.

Joint Committee to inform the Governor of the organization of the Legislature.

Adopted at Dover, January 5, 1869.

CHAPTER 542.

Joint Resolution tendering the respect of the General Assembly to the memory of the Hon. Martin W. Bates.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That as a mark of respect to the memory and public services of the late Hon. Martin W. Bates, that both houses adjourn until to-morrow morning, at 10 o'clock, to attend, in a body, the funeral of the deceased, from his late residence, this afternoon, at 2 o'clock, P. M.

Adjournment, to attend funeral of M. W. Bates, deceased.

Resolved, That the members of the General Assembly tender their condolence to the family and relatives of the deceased in their bereavement.

Condolence to family of deceased.

Resolved, That a copy of the above resolutions, duly prepared and signed by the respective Clerks, be forwarded to the family of the deceased.

Copy of resolutions to be delivered to family of deceased.

Adopted at Dover, January 5, 1869.

RESOLUTIONS.

CHAPTER 543.

Joint Resolution appointing a Joint Committee for the purpose of having necessary repairs made to State House.

Preamble.

WHEREAS it appears that the duty directed by the last General Assembly (Chapter 275) to be performed by Frederick Croyden, to make the necessary repairs to the State House, has not been satisfactorily performed, therefore,

Joint Committee for the purpose of having the State House repaired, &c.

Be it resolved by the Senate and House of Representatives in General Assembly met, That Messrs. Denney and Hall on the part of the Senate, and Messrs. Brown, Bacon and Jump on the part of the House of Representatives be and they are hereby appointed a joint committee for the purpose of having the necessary repairs made forthwith; and further to have the vestibule of the house thoroughly cleansed before the meeting of the General Assembly on the coming week.

Adopted at Dover, January 6, 1869.

CHAPTER 544.

Joint Resolution appointing Joint Committee on Rules for the Government of the two Houses.

Joint Committee on rules for government of the two Houses.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That there be appointed a joint committee of two on the part of the Senate and three on the part of the House to prepare joint rules for the government of intercourse between the two houses.

Adopted at Dover, January 7, 1869.

RESOLUTIONS.

CHAPTER 545.

Joint Resolution adjourning the two Houses from this day to Monday next at 3 o'clock, P. M.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That when the two houses adjourn this morning they will adjourn to meet on Monday next at 3 o'clock, P. M.

Adjournment of Legislature.

Adopted at Dover, January 7, 1869.

CHAPTER 546.

Joint Resolution for a Joint Committee to settle with the State Treasurer.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a committee of three members on the part of the House of Representatives and two members on the part of the Senate be appointed to examine the accounts of the State Treasurer and make a report to the General Assembly on or before the ninth day of February next.

Committee to examine accounts of State Treasurer.

Adopted at Dover, January 7, 1869.

CHAPTER 547.

Joint Resolution appointing Joseph P. Comegys to confer with the Projectors of the French trans-Atlantic Telegraph Cable.

WHEREAS the promotion of rapid intelligence between the peoples of all parts of the world is an object of great importance, not only in a social, but in a commercial and also a political point of view;

Preamble.

RESOLUTIONS.

AND WHEREAS it is believed that the gradual slope of the sea bottom along the coast of this State on our southeastern boundary, and the entire absence of rocks, furnish a better site in Delaware than elsewhere for landing and establishing the western end of the French trans-Atlantic telegraph cable, especially when the centrality of the State with reference to the whole country is considered;

AND WHEREAS there being no reason, constitutional or otherwise, why a grant by this State of the right to use her soil for the purpose aforesaid should not be made upon proper terms and conditions; therefore,

J. P. Comegys appointed to confer with the projectors of cable enterprise.

His proceedings to be reported to Legislature.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Joseph P. Comegys be and he is hereby appointed on behalf of this State to confer with the projectors of the aforesaid cable enterprise and negotiate for this State such an arrangement with reference to the premises as may be deemed consistent with the dignity and interests of Delaware; and that he submit to the General Assembly, at an early day, a report of his proceedings; *Provided, however,* That no final arrangement, as above contemplated, shall be binding unless approved by the General Assembly.

Copy of resolutions to be furnished to Mr. Comegys.

Resolved, That a copy hereof be duly authenticated and furnished to the said Joseph P. Comegys for his guidance.

Adopted at Dover, January 26, 1869.

CHAPTER 548.

Joint Resolution relating to the late State Treasurer.

An allowance made to L. Tharp, late Treasurer.

For what services.

Be it resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Lewellen Tharp, late State Treasurer for the years of 1865 and 1866, be allowed the sum of seventy-one dollars and forty cents for his services in assessing the tax on the amount of the shares owned or held in the National Banks in this State, in pursuance of an act entitled "An act in relation to National Banks," passed at Dover, February 16, 1866, and the State Treasurer is hereby directed to pay to the order of the said Lewellen Tharp the said sum of seventy-one dollars and forty cents.

Adopted at Dover, February 2, 1869.

RESOLUTIONS.

CHAPTER 549.

Joint Resolution appointing William J. Clarke State Treasurer.

Resolved by the House of Representatives of the State of Delaware (by and with the concurrence of the Senate), That William J. Clarke be and he is hereby appointed State Treasurer.

W. J. Clarke appointed State Treasurer.

Adopted at Dover, February 4, 1869.

CHAPTER 550.

Joint Resolution appointing Robert Lambden Auditor of Accounts.

Resolved by the House of Representatives of the State of Delaware (by and with the concurrence of the Senate), That Robert Lambden be and he is hereby appointed Auditor of Accounts.

Robt. Lambden appointed Auditor.

Adopted at Dover, February 4, 1869.

CHAPTER 551.

Joint Resolution appointing Bank Directors.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the following persons be and they are hereby appointed Directors of the Farmers' Bank of the State of Delaware, and its branches, on the part of the State, agreeably to the act of the General Assembly in such case made and provided: For the principal bank at Dover, Edward Ridgely, John W. Hall, Samuel Hargadine; for the branch at Wilmington, William Bright, J. Morton Poole, William M. Kennard; for the branch at New Castle, James Truss, Allen V. Lesley, John Merritt; for the branch at Georgetown, William D. Waples, J. Turpin Moore, Loxley R. Jacobs.

Bank Directors appointed.

Adopted at Dover, February 17, 1869.

RESOLUTIONS.

CHAPTER 552.

Joint Resolution to read Washington's Farewell Address.

Joint Meeting to hear read Washington's Farewell address.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the two Houses of this General Assembly will assemble in joint meeting in the hall of the House of Representatives at 4½ o'clock this (Monday) afternoon, the 22d day of February, to hear read by the Clerk of the Senate the Farewell Address of Washington.

Adopted at Dover, February 22, 1869.

CHAPTER 553.

Joint Resolution for the purpose of authorizing the State Treasurer to commence proceedings against the P. W. & B. R. R. Co., to collect Taxes now due and unpaid.

State Treasurer authorized to bring suit.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized and directed to proceed by suit in the name of the State, or in his own name for the use of the State, or in such other manner as he may deem best, to enforce the payment of the tax now due, or which may hereafter become due to the State from the Philadelphia, Wilmington and Baltimore Railroad Company, under the provisions of an act of the General Assembly entitled, "An Act to raise Revenue for this State," passed August 11, 1864, and he is hereby authorized and empowered to employ counsel to prosecute suit as aforesaid, and out of any money in the Treasury not otherwise appropriated to pay to such counsel the amount of compensation fixed by the Chancellor or Chief Justice of the State.

Authorized to employ counsel.

Adopted at Dover, February 23, 1869.

RESOLUTIONS.

CHAPTER 554.

Joint Resolution for the compensation of George B. Rodney and Alfred P. Robinson for certain services.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized and required to pay, out of any money in the Treasury not otherwise appropriated, to George B. Rodney and unto Clara P., widow of Alfred P. Robinson, deceased, each the sum of one hundred and fifty dollars, for services rendered by the said George B. Rodney and Alfred P. Robinson, deceased, as counsel in behalf of the State in certain proceedings in the nature of a writ of *quo warranto* against John A. Morris, instituted under the authority of an act of the General Assembly, passed January 28, 1862. (See Vol. 12, p. 219, &c.)

State Treasurer directed to pay Geo. B. Rodney and Clara P. Robinson $150 each.

Adopted at Dover, February 25, 1869.

CHAPTER 555.

Joint Resolutions relative to the Proposed Amendments to the Constitution of the United States.

WHEREAS the Senate and House of Representatives of the United States in Congress assembled, by a resolution passed in accordance with the provisions of the fifth article of the Constitution of the United States at the second session of the Fortieth Congress, begun and held on the first Monday of December, A. D. 1868, have proposed a certain article of amendment to the said Constitution for the consideration of the Legislatures of the several States, which said proposed article of amendment is in the following words and figures, to wit:

Preamble.

SECTION 1. The rights of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

RESOLUTIONS.

AND WHEREAS the Governor of this State has submitted the said proposed amendment to this General Assembly; And whereas this General Assembly believes the adoption of the said proposed amendment to the Constitution would have a tendency to destroy the rights of the States in their sovereign capacity as States, which sovereignty was acknowledged at the time of the ratification of the Constitution: would deprive the States of their right to regulate their own affairs, and of the constitutional right of establishing the laws regulating the suffrage of their own citizens for their own offices; would be a subversion of the Constitution and Government of the United States and of the constitutions and governments of the several States composing the Federal Union; would be an attempt to establish an equality not sanctioned by the laws of nature or of God; would foster and excite bitter and unkind relations between citizens of different sections of the country; would delay, if not prevent, a restoration of a perfect union between the States, and would be destructive of the ends and purposes intended to be secured by the Constitution of the United States; therefore,

Amendment to Constitution of U. S. rejected.

Be it resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the members of this General Assembly do hereby declare their unqualified disapproval of said amendment to the Constitution of the United States, and hereby refuse to adopt and ratify the same.

Authenticated copy to be sent to Secretary of State of U. S.

Resolved further, That a duly authenticated copy of the foregoing preamble and resolution be transmitted by the Secretary of State of this State to the Secretary of State of the United States.

Adopted at Dover, March 18, 1869.

CHAPTER 556.

Joint Resolution compensating Victor Du Pont, Chancellor ad litem.

$1100 appropriated to Victor Du Pont for services as Chancellor ad litem.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the sum of eleven hundred dollars be and the same is hereby appropriated out of any moneys in the Treasury of the State as a compensation to Victor Du Pont for his services as Chancellor *ad litem* in five

cases, to wit: Jonathan Catlin vs. Jonathan W. Ramsey, in Chancery; George McCrone vs. William B. McCrone's Ex'rs, in Chancery; William H. Pearce et al. vs. Estrange Gould et al., in Chancery; George H. Aydelott vs. James Gorden, in Chancery; Stover & Whitaker vs. E. J. Horner et al., in Chancery; and that the State Treasurer be and he is hereby directed to pay to the said Victor Du Pont the said sum of eleven hundred dollars in manner following, to wit: the sum of three hundred dollars for each of three cases, as follows: Jonathan Catlin vs. Jonathan W. Ramsey, in Chancery; George McCrone vs. William B. McCrone's Ex'rs, in Chancery; William H. Pearce et al. vs. Estrange Gould et al., in Chancery, and the sum of one hundred dollars for each of two cases, as follows: George H. Aydelott vs. James Gorden, in Chancery, and Stover & Whitaker vs. E. J. Horner et al., in Chancery, as each of them is finally disposed of, and not before.

Adopted at Dover, March 19, 1869.

CHAPTER 557.

Joint Resolution appointing a Committee to settle with State Treasurer and Auditor of Accounts.

Committee to settle with State Treasurer and Auditor.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Charles Gooding and Thomas H. Denney, on the part of the Senate, and John S. Bacon, W. W. Meredith and Lot Cloud, on the part of the House of Representatives, be and they are hereby appointed a committee on the part of this General Assembly, whose duty it shall be to meet at Dover, on the third Tuesday of January, A. D. 1870, for the purpose of settling the account of the State Treasurer and receiving the report of the Auditor of Accounts for the current year.

Statement to be made.

Publication.

Resolved, That it shall be the duty of the said committee, after their settlement with the State Treasurer as aforesaid, to cause a statement of such settlement, under their hands, or the hands of a majority of them, to be published in two newspapers, printed in the State, for the space of one month from the time of effecting the same.

RESOLUTIONS.

Accounts of Clerks.

Resolved, That the said committee have full power and authority to audit the account of the Clerk of the Senate and of the Clerk of the House of Representatives for superintending the printing of the journals of the houses of the Legislature during the present session, and for making indexes thereto: also the account of the Secretary of State for superintending the printing of the acts of the present session and for making index to the same, and make such allowances for said services as they may think just and proper, which said allowances shall be paid by the State Treasurer upon orders drawn by the chairman of the said committee in favor of said Clerks and Secretary of State respectively.

Secretary of State.

Allowances.

Compensation of Committee.

Resolved, That said committee shall receive the same compensation as is by law allowed to the members of the General Assembly, to be paid by the State Treasurer, upon orders drawn by the chairman of the said committee, out of any money in the hands of the said State Treasurer not otherwise appropriated, and the chairman of said committee shall have authority to draw orders for the incidental expenses arising out of the session of the said committee, to be paid in like manner.

Adopted at Dover, March 22, 1869.

CHAPTER 558.

Joint Resolution appointing Zadock L. Butler to take charge of the Legislative Chambers.

Z. L. Butler to take charge of chambers.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Zadock L. Butler be and he is hereby appointed to take charge of the Senate Chamber and of the Hall of the House of Representatives, and to take care of the furniture belonging to the same.

Duty.

Be it further resolved by the authority aforesaid, That it shall be the duty of the said Zadock L. Butler to pay strict attention to the proper airing of said rooms and to the furniture belonging to each, and keep the same in the best condition within his power, and that he be required strictly to enforce the rules made or lawfully to be made for the regulation of the same.

RESOLUTIONS.

And be it further resolved by the authority aforesaid, That for the faithful performance of the duties above specified the State Treasurer shall pay the said Zadock L. Butler the sum of forty dollars per annum, the first year to commence on the day succeeding the day of adjournment of this General Assembly. Compensation.

Adopted at Dover, March 23, 1869.

CHAPTER 559.

Joint Resolution authorizing State Treasurer to pay the members of this General Assembly their per diem and mileage in gold coin or its equivalent in currency.

WHEREAS the facts set forth in the preamble of the joint resolution adopted at Dover, March 21, 1867, still hold true in every respect; therefore, Preamble.

Be it resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby directed to pay to the members of this General Assembly their per diem and mileage in gold coin or its equivalent in currency. Per diem to be paid in gold or silver.

Adopted at Dover, March 24, 1869.

CHAPTER 560.

A Joint Resolution relating to the Delaware Historical Society.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Librarian and other officers having duplicate copies of public documents, and especially of the journals of the two houses of the General Assembly, in their possession, or under their control, be and they are hereby authorized and directed to furnish one copy thereof to the Historical Society of Delaware, or to such persons as may be authorized by it to receive them, to the intent that the same may be preserved amongst the archives of said society. Certain books to be furnished to the Del. Historical Society.

Adopted at Dover, March 31, 1869.

RESOLUTIONS.

CHAPTER 561.

Joint Resolution Adjourning the two Houses of the General Assembly, on (9) ninth April inst., sine die.

Adjournment of Legislature sine die.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That both houses of the Legislature will adjourn on Friday, the (9) ninth of April instant, *sine die.*

Adopted at Dover, April 2, 1869.

CHAPTER 562.

Joint Resolution appropriating Six Hundred Dollars to pay the Contingent Expenses of the Office of Secretary of State.

Contingent expenses of Secretary of State.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the sum of six hundred dollars be and the same is hereby appropriated and made payable to Custis W. Wright, Secretary of State, to defray the contingent expenses of his office for the present and ensuing year, and that he be required to present his accounts and vouchers to the General Assembly of this State, at its next session, for settlement.

Adopted at Dover, April 7, 1869.

CHAPTER 563.

Joint Resolution in relation to the Payment of the State Debt.

Moneys received under the provisions of certain acts to be applied to State debt and redemption of State bonds.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized and directed to apply all the money which he may hereafter receive under and by virtue of the provisions of the following acts, passed this present session of the Legislature, viz: "An act taxing the shares of Banks," "An

act providing Revenue for this State," and "An act taxing the Railroad and Canal Companies in this State," to the payment of the interest on the present State debt and to the redemption of the bonds of the State of Delaware now issued, or now authorized by law to be issued, on such terms as shall seem most proper to the said State Treasurer: *Provided* the Chancellor of this State consents to the terms upon which the said bonds may be redeemed. And that it shall be the duty of the said State Treasurer, upon the redemption of any bond as aforesaid, to cancel the same, and the said State Treasurer shall not be allowed any more than the actual sum paid for such bond or bonds in his account of the same hereafter rendered to the Legislature.

Chancellor to consent to the redemption.

Only the sum paid to be allowed State Treasurer.

Adopted at Dover, April 8, 1869.

CHAPTER 564.

Joint Resolution to receive no more New Business.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That at this late hour of the session we will receive no more new business.

New business not to be received.

Adopted at Dover, April 9, 1869.

CHAPTER 565.

Joint Resolution to have Published the Tax Bills.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State is hereby authorized and empowered to have printed the tax bills, as passed by this General Assembly, in two weekly papers in New Castle county, one in Kent county, and one in Sussex county, provided each one of the said papers will give the said tax bills three insertions for fifty dollars, and he is hereby authorized to draw warrants on the State Treasurer for the payment of the same.

Publication of the Tax bills directed.

Adopted at Dover, April 9, 1869.

RESOLUTIONS.

CHAPTER 566.

Joint Resolution authorizing the State Treasurer to Borrow Money.

State Treasurer authorized to borrow money.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer is hereby authorized and empowered to borrow, on the credit of the State, if necessary, such an amount of money as he may need to meet the interest on the State Bonds due July 1st, 1869.

Adopted at Dover, April 9, 1869.

TITLES OF ACTS OF INCORPORATION

Excluded from Publication by Act of Feb 17, 1866.

CHAPTER 567.

An Act to incorporate Clayton Lodge, No. 4, of the Knights of Pythias, of the State of Delaware.

Passed at Dover, January 14, 1869.

CHAPTER 568.

An Act to incorporate Eden Lodge, No. 34, Independent Order of Odd Fellows of the State of Delaware.

Passed at Dover, January 14, 1869.

CHAPTER 569.

An Act to incorporate the Laurel Classical Institute and Commercial College, of Laurel, Delaware.

Passed at Dover, January 15, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 570.

An Act to incorporate Washington Lodge, No. 1, Knights of Pythias of the State of Delaware.

Passed at Dover, January 19, 1869.

CHAPTER 571.

An Act to incorporate the Edgemoor Iron Company.

Passed at Dover, Jrnuary 20, 1869.

CHAPTER 572.

An Act to incorporate the Dover Ice Company.

Passed at Dover, January 20, 1869.

CHAPTER 573.

An Act to amend and renew the charter of the Farmers' Mutual Fire Insurance Company of St. George's and Appoquinimink hundreds in New Castle county.

Passed at Dover, January 22, 1869.

CHAPTER 574.

An Act for the renewal of the charter of the New Castle County Mutual Insurance Company.

Passed at Dover, January 25, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 575.

An Act to incorporate the Shields' Library Association, of Wilmington.

Passed at Dover, January 25, 1869.

CHAPTER 576.

An Act to reincorporate the Washington Steam Fire Engine and Hook and Ladder Company, No. 7, of the City of Wilmington, Delaware, instituted January 4, 1840, incorporated February 9, 1841.

Passed at Dover, January 25, 1869.

CHAPTER 577.

An Act to incorporate the Pusey Cotton and Machine Company.

Passed at Dover, January 26, 1869.

CHAPTER 578.

An Act to incorporate Excelsior Lodge, No. 7, Knights of Pythias of the State of Delaware, in the City of Wilmington.

Passed at Dover, January 26, 1869.

CHAPTER 579.

An Act to amend an act entitled, "An Act to incorporate The Kiamensi Woolen Company."

Passed at Dover, January 27, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 580.

An Act to incorporate Champion Lodge, No. 6, Knights of Pythias, of the State of Delaware, in the City of Wilmington.

Passed at Dover, January 27, 1869.

CHAPTER 581.

An Act to incorporate Lincoln Lodge, No. 3, Knights of Pythias, of the State of Delaware, in the City of Wilmington.

Passed at Dover, January 28, 1869.

CHAPTER 582.

An Act to incorporate the Masonic Hall Company of Wilmington, Delaware.

Passed at Dover, January 28, 1869.

CHAPTER 583.

An Act to incorporate Jefferson Lodge, Number two, of the Independent Order of Odd Fellows, of the State of Delaware.

Passed at Dover, February 2, 1869.

CHAPTER 584.

An Act to extend the act entitled, "An Act to incorporate Crystal Fount Lodge, No. 10, of the Independent Order of Odd Fellows, at Milford, Delaware.

Passed at Dover, February 4, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 585.

An Act to incorporate Adelphia Lodge, No. 8, Knights of Pythias, at New Castle, Delaware.

Passed at Dover, February 5, 1869.

CHAPTER 586.

An Act to amend and re-enact the act entitled, "An Act to incorporate Philodemic Lodge, No. 7, of the Independent Order of Odd Fellows, of Dover, in the State of Delaware," passed at Dover, February 15, 1849.

Passed at Dover, February 8, 1869.

CHAPTER 587.

An Act to incorporate Central Lodge, No. 10, Knights of Pythias, of the State of Delaware, in the town of Dover.

Passed at Dover, February 9, 1869.

CHAPTER 588.

An Act to incorporate Diamond State Circle, No. 3, of the Order of Brotherhood of the Union, South Milford, Delaware.

Passed at Dover, February 9, 1869.

CHAPTER 589.

An Act to incorporate the Manufacturers' Fire Insurance Company of Wilmington, Delaware.

Passed at Dover, February 10, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 590.

An Act to incorporate the Grand Lodge of the Independent Order of Odd Fellows of the State of Delaware.

Passed at Dover, February 12, 1869.

CHAPTER 591.

An Act to incorporate Morning Star Lodge, No. 9, Knights of Pythias.

Passed at Dover, February 15, 1869.

CHAPTER 592.

An Act to incorporate Wyoming College, at Wyoming, in Kent county.

Passed at Dover, February 16, 1869.

CHAPTER 593.

An Act to incorporate the Aid Loan Association of Wilmington, Delaware.

Passed at Dover, February 16, 1869.

CHAPTER 594.

An Act to incorporate the "Star Loan Association" of Wilmington, Delaware.

Passed at Dover, February 16, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 595.

A Supplement to the act to establish the Wilmington and Brandywine Cemetery.

Passed at Dover, February 17, 1869.

CHAPTER 596.

An Act to incorporate the "Franklin Loan Association" of the City of Wilmington.

Passed at Dover, February 17, 1869.

CHAPTER 597.

An Act to incorporate the Delaware Coal and Transportation Company.

Passed at Dover, February 18, 1869.

CHAPTER 598.

An Act to enable the owners and managers of lands in Deer Creek Marsh Company to construct an embankment for their protection.

Passed at Dover, February 18, 1869.

CHAPTER 599.

An Act to incorporate the Union Loan Association of Wilmington.

Passed at Dover, February 22, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 600.

An Act to incorporate the Building and Loan Association of Odessa.

Passed at Dover, February 23, 1869.

CHAPTER 601.

An Act to incorporate State Capital Lodge, No. 33, Independent Order of Good Templars, of the State of Delaware, at Dover.

Passed at Dover, February 23, 1869.

CHAPTER 602.

An Act to incorporate the Milford Building and Loan Association, of Milford, Delaware.

Passed at Dover, February 23, 1869.

CHAPTER 603.

An Act incorporating the Tussockee Branch Improvement Company, in Little Creek hundred, Sussex county.

Passed at Dover, February 23, 1869.

CHAPTER 604.

An Act to incorporate the "Jackson and Sharp Company."

Passed at Dover, February 24, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 605.

A Supplement to the act entitled, "An Act to incorporate the Morris Branch and Beaver Branch Banking Company, and for other purposes therein mentioned," passed at Dover, March 20, 1867.

Passed at Dover, February 24, 1869.

CHAPTER 606.

An Act to incorporate the Pint Branch Ditch Company.

Passed at Dover, February 25, 1869.

CHAPTER 607.

An Act for the improvement of Tuskey Branch, in Sussex county.

Passed at Dover, February 25, 1869.

CHAPTER 608.

An Act to incorporate the Dagsborough and Baltimore Hundred Loan Association, in Sussex county, Delaware.

Passed at Dover, March 2, 1869.

CHAPTER 609.

An Act to re-enact the act entitled, "An act to incorporate Morning Star Lodge, No. 6, of the I. O. O. F., at Smyrna, Delaware."

Passed at Dover, March 3, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 610.

An Act to incorporate Milford Lodge, No. 44, of the Independent Order of Good Templars, at Milford Delaware.

Passed at Dover, March 3, 1869.

CHAPTER 611.

An Act to amend an act entitled, "An Act for incorporating the Reliance Fire Company, in the Borough of Wilmington," passed January 23, 1802.

Passed at Dover, March 3, 1869.

CHAPTER 612.

An act to re-enact the act entitled "An Act to incorporate the members of the Phœnix Fire Company, in the City of Wilmington."

Passed at Dover, March 3, 1869.

CHAPTER 613.

An Act to incorporate the Mispillion or Beaver Dam Branch Draining Company, and for other purposes.

Passed at Dover, March 3, 1869.

CHAPTER 614.

An Act to incorporate the Wilmington Museum and Lecture Room.

Passed at Dover, March 4, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 615.

An Act to incorporate "The Mechanics' Building and Loan Association of the town of Dover."

Passed at Dover, March 4, 1869.

CHAPTER 616.

An Act to incorporate the Newport Press Brick Manufacturing Company.

Passed at Dover, March 10, 1869.

CHAPTER 617.

An Act to incorporate the Chesapeake, Delaware and Hudson Transportation Company.

Passed at Dover, March 10, 1869.

CHAPTER 618.

An Act to extend an act entitled, "An Act to incorporate Amity Lodge, No. 20, of the Independent Order of Odd Fellows, of Camden, in the State of Delaware.

Passed at Dover, March 10, 1869.

CHAPTER 619.

An Act to incorporate The Penn Loan Association of Wilmington.

Passed at Dover, March 11, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 620.

An Act to reincorporate the Water Witch Fire Company of the City of Wilmington, Delaware. Instituted March 13, 1833. Incorporated January 22, 1835.

Passed at Dover, March 11, 1869.

CHAPTER 621.

An Act to incorporate the "Brandywine Loan Association."

Passed at Dover, March 15, 1869.

CHAPTER 622.

An Act to incorporate The Kenton Building and Loan Association.

Passed at Dover, March 15, 1869.

CHAPTER 623.

An Act to incorporate the "West Sussex Agricultural Society of Sussex county, Delaware.

Passed at Dover, March 15, 1869.

CHAPTER 624.

An Act to reincorporate Mechanics' Lodge, No. 4, of the Independent Order of Odd Fellows, of the State of Delaware.

Passed at Dover, March 15, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 625.

An Act in regard to Gum Branch Ditch, in Cedar Creek and Nanticoke hundreds, in Sussex county.

Passed at Dover, March 15, 1869.

CHAPTER 626.

An Act to incorporate Wyoming Lodge, No. 31, I. O. of G. T., of the State of Delaware.

Passed at Dover, March 16, 1869.

CHAPTER 627.

An Act to incorporate the Delaware Screw Company.

Passed at Dover, March 16, 1869.

CHAPTER 628.

An Act to incorporate the Newark Building and Improvement Association.

Passed at Dover, March 18, 1869.

CHAPTER 629.

An Act to incorporate the Laurel Building and Loan Association.

Passed at Dover, March 18, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 630.

An Act to incorporate The Lewes Building and Loan Association, of Lewes, Delaware.

Passed at Dover, March 18, 1869.

CHAPTER 631.

An Act to incorporate the Wyoming Building and Loan Association.

Passed at Dover, March 23, 1869.

CHAPTER 632.

A Supplement to an act entitled, "An Act to incorporate "The Middletown Hall Company, of Middletown, Delaware."

Passed at Dover, March 23, 1869.

CHAPTER 633.

An Act to incorporate the White's Marsh Branch Ditch Company.

Passed at Dover, March 23, 1869.

CHAPTER 634.

An Act amendatory of and supplemental to the act entitled, "An Act to incorporate The Jordan Branch Ditch Company," passed at Dover, March 12, 1867.

Passed at Dover, March 25, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 635.

An Act to incorporate The Harrington Building and Loan Association, of Harrington, Delaware.

Passed at Dover, March 25, 1869.

CHAPTER 636.

An Act incorporating The Ingram's Branch Ditch Company.

Passed at Dover, March 26, 1869.

CHAPTER 637.

An Act to incorporate Delaware Lodge, No. 1, Independent Order of Odd Fellows, of Wilmington, Delaware.

Passed at Dover, March 30, 1869.

CHAPTER 638.

An Act to re-enact and continue in force the act entitled, "An Act to incorporate Oriental Lodge, Number twelve, of the Independent Order of Odd Fellows, of the State of Delaware," passed at Dover, February 27, 1849.

Passed at Dover, March 30, 1869.

CHAPTER 639.

An Act to incorporate The Delaware Mutual Aid Association of the Independent Order of Odd Fellows, of Wilmington, Delaware.

Passed at Dover, April 1, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 640.

An Act to incorporate The Odd Fellows' Hall Company of Wilmington.

Passed at Dover, April 1, 1869.

CHAPTER 641.

An Act to incorporate The Orinoco Exploring and Mining Company.

Passed at Dover, April 1, 1869.

CHAPTER 642.

An Act to incorporate The Sussex County Mutual Insurance Company.

Passed at Dover, April 1, 1869.

CHAPTER 643.

An Act to incorporate Fan Branch Ditch Company.

Passed at Dover, April 2, 1869.

CHAPTER 644.

An Act to incorporate The West Wilmington Building and Improvement Association.

Passed at Dover, April 2, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 645.

An Act to amend an act entitled, "An Act to incorporate the Wilmington Museum and Lecture Room," passed at Dover, March 4, 1869.

Passed at Dover, April 5, 1869.

CHAPTER 646.

An Act to incorporate The Kenton Hundred Improvement Company.

Passed at Dover, April 6, 1869.

CHAPTER 647.

An Act to incorporate The Smyrna Seminary.

Passed at Dover, April 6, 1869.

CHAPTER 648.

An Act to incorporate The Citizens' Loan Association.

Passed at Dover, April 6, 1869.

CHAPTER 649.

An Act to incorporate The Young Men's Loan Association of Wilmington.

Passed at Dover, April 7, 1869.

TITLES OF ACTS OF INCORPORATION.

CHAPTER 650.

An Act to incorporate The Georgetown Building and Loan Association, in Sussex county.

Passed at Dover, April 7, 1869.

CHAPTER 651.

A Supplement to an act entitled, "An Act to enable the owners and possessors of the low grounds and marshes, commonly called and known by the name and title of Cow Marsh Ditch Company."

Passed at Dover, April 7, 1869.

CHAPTER 652.

An Act concerning The Tappahanna Marsh Company.

Passed at Dover, April 7, 1869.

CHAPTER 653.

An Act to incorporate The Diamond State Wood-preserving Company.

Passed at Dover, April 8, 1869.

CHAPTER 654.

An Act to incorporate The Broadkiln Hundred Building and Loan Association, of Milton, Delaware.

Passed at Dover, April 9, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 655.

An Act to enable Sarah Catharine Martin, formerly Sarah Catharine Richards, to make a last will and testament.

Passed at Dover, January 18, 1869.

CHAPTER 656.

An Act to divorce Mary Kaiser and Charles Kaiser, her husband, from the bonds of matrimony.

Passed at Dover, January 19, 1869.

CHAPTER 657.

An Act for the relief of Mary A. Sawdon.

Passed at Dover, January 19, 1869.

CHAPTER 658.

An Act to divorce Laura Cecilia Riggs from her husband, James B. Riggs.

Passed at Dover, January 21, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 659.

An Act to divorce John P. Davis from his wife, Mollie J. Davis.

Passed at Dover, January 26, 1869.

CHAPTER 660.

An Act to divorce Robert Gray and Mary Ann Gray from the bonds of matrimony.

Passed at Dover, January 26, 1869.

CHAPTER 661.

An Act for the relief of Eliza Hamman.

Passed at Dover, January 27, 1869.

CHAPTER 662.

An Act to divorce Charlotte Hirschmann and her husband, Christian Hirschmann, from the bonds of matrimony.

Passed at Dover, January 27, 1869.

CHAPTER 663.

An Act to revive an act to authorize the sale of certain real estate in New Castle county, late of Elijah Hollingsworth, deceased.

Passed at Dover, January 28, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 664.

An Act to divorce Mary S. Jeffries and Joseph R. Jeffries, her husband, from the bonds of matrimony.

Passed at Dover, January 29, 1869.

CHAPTER 665.

An Act to enable William W. Dashiell to locate certain vacant lands in Dagsboro' hundred, Sussex county, and complete his title to the same.

Passed at Dover, January 29, 1869.

CHAPTER 666.

An Act to divorce Joseph T. Rhodes and Mary Ann, his wife, from the bonds of marriage.

Passed at Dover, February 2, 1869.

CHAPTER 667.

An Act to divorce John A. McClintock and Annie E. McClintock from the bonds of matrimony.

Passed at Dover, February 2, 1869.

CHAPTER 668.

An Act to divorce William E. Belt and Rebecca A. Belt from the bonds of matrimony.

Passed at Dover, February 3, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 669.

An Act to divorce Sarah A. Anderson from her husband, Josiah Anderson.

Passed at Dover, February 3, 1869.

CHAPTER 670.

An Act to change the name of John D. Jones to that of Charles Francis, and to adopt said Charles Francis as the son and heir of James Francis.

Passed at Dover, February 3, 1869.

CHAPTER 671.

An Act to vest in Sinah Chase, (colored woman,) of Broad Creek hundred, Sussex county, and State of Delaware, certain personal property, formerly belonging to William H. Bewley, (deceased).

Passed at Dover, February 4, 1869.

CHAPTER 672.

An Act concerning the property of George Murrell, a deceased alien.

Passed at Dover, February 9, 1869.

CHAPTER 673.

An Act to divorce Thomas W. Husbands and Emma T. Husbands, *a vinculo matrimonii.*

Passed at Dover, February 10, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 674.

An Act to dissolve the marriage tie existing between George W. Walling and Catharine, his wife.

Passed at Dover, February 11, 1869.

CHAPTER 675.

An Act to divorce James Ellingsworth and Louisa Ellingsworth, his wife, formerly Louisa Short, from the bonds of matrimony.

Passed at Dover, February 12, 1869.

CHAPTER 676.

An Act to divorce Audrey Douglass from her husband, William Douglass.

Passed at Dover, February 15, 1869.

CHAPTER 677.

An Act to divorce Elisha J. Bailey and Susan Cornelia Bailey, his wife, from the bonds of matrimony.

Passed at Dover, February 16, 1869.

CHAPTER 678.

An Act to authorize Sally Ann Townsend, wife of John Townsend, formerly Sally Ann Hedges, to make a last will and testament.

Passed at Dover, February 17, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 679.

An Act to divorce Mary M. Hazel from her husband, Manlove Hazel.

Passed at Dover, February 23, 1869.

CHAPTER 680.

An Act to divorce Charles G. Polk and Julia Polk from the bonds of matrimony.

Passed at Dover, February 24, 1869.

CHAPTER 681.

An Act to divorce Hetty Phillips and John Phillips, her husband, from the bonds of matrimony.

Passed at Dover, February 24, 1869.

CHAPTER 682.

A Supplement to the act entitled, "An Act to authorize the owners and possessors of the marsh and low grounds, commonly called and known by the name of Horse-pen Drain, in the Forest of Murderkill hundred, in Kent county, to cut a ditch or drain through the same."

Passed at Dover, February 24, 1869.

CHAPTER 683.

An Act to enable George H. West and others to drain certain salt and fresh ponds in Baltimore Hundred, Sussex County, Delaware.

Passed at Dover, February 25, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 684.

An Act to enable Daniel M. Bates, as Trustee, to sell certain real estate.

Passed at Dover, February 26, 1869.

CHAPTER 685.

An Act to enable Sarah A. Smith to prove a certain contract for the sale of certain real estate in order to complete her title thereto.

Passed at Dover, March 3, 1869.

CHAPTER 686.

An additional supplement to the act entitled, "An Act for stopping St. George's Creek, and draining a quantity of marsh on each side of said creek, being deemed about three thousand acres, situate in Red Lion and St. George's hundreds, and County of New Castle, and for keeping the dykes and drains belonging to the same in good order and repair."

Passed at Dover, March 10, 1869.

CHAPTER 687.

An Act to authorize Dr. David Hall, Henry S. Marshall and Dr. William Marshall to convey certain lands.

Passed at Dover, March 12, 1869.

CHAPTER 688.

An Act for the relief of Susannah Lynch.

Passed at Dover, March 16, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 689.

An Act to enable Sally F. Jones, formerly Sally F. Fooks, more recently Sally F. James, now the wife of Thomas A. Jones, to make a last will and testament.

Passed at Dover, March 19, 1869.

CHAPTER 690.

An Act to repeal an act passed at the present session of the Legislature entitled, "An Act to divorce Elisha J. Bailey and Susan Cornelia Bailey from the bonds of matrimony."

Passed at Dover, March 25, 1869.

CHAPTER 691.

An Act to authorize Nathaniel R. Jacobs and John R. Ricards, of Sussex county, to locate certain vacant land in North-west Fork hundred, in Sussex county, and State of Delaware, and to complete their title to the same.

Passed at Dover, March 26, 1869.

CHAPTER 692.

An Act to authorize Isaac H. Register, father and guardian of Deborah L. Register, a minor, to sell and convey her right in a certain farm.

Passed at Dover, April 2, 1869.

CHAPTER 693.

An Act to authorize Job Willoughby, of Sussex county, to locate certain lands in North-west Fork hundred, in said county, and to complete his title to the same.

Passed at Dover, April 2, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 694.

An Act to divorce Mary E. Tumblin from her husband, George C. Tumblin.

Passed at Dover, April 5, 1869.

CHAPTER 695.

An Act to change the location of a certain ditch on lands of William Hitch, in Sussex county.

Passed at Dover, April 6, 1869.

CHAPTER 696.

An Act to revive and continue in force an act passed at the last session of the General Assembly entitled, "An Act to authorize the sale of certain real estate therein mentioned, devised by the will of John Pleasanton," and to amend the same.

Passed at Dover, April 7, 1869.

CHAPTER 697.

An Act to enable Joshua S. Burton to locate certain vacant land in Lewes and Rehoboth hundred, in Sussex county, and complete his title to the same.

Passed at Dover, April 7, 1869.

CHAPTER 698.

An Act for the relief of Anna Elizabeth Fairfield.

Passed at Dover, April 8, 1869.

TITLES OF PRIVATE ACTS.

CHAPTER 699.

An Act to authorize Henry Price to sell certain real estate in Kent county.

Passed at Dover, April 8, 1869.

CHAPTER 700.

An Act for the relief of the minor children of Ebenezer Cloak, deceased.

Passed at Dover, April 8, 1869.

CHAPTER 701.

An Act to revive and continue in force an act passed on the 29th January, 1839, entitled, "An Act for the relief of the owners and possessors of the marsh and low grounds on and near the main branch of the head waters of Nanticoke River and its branches.

Passed at Dover, April 8, 1869.

CHAPTER 702.

An Act to authorize William T. Hern and Lorenzo T. Hern to sell and convey certain lands.

Passed at Dover, April 8, 1869.

SECRETARY'S OFFICE.

DOVER, Sept. 7, 1869.

In obedience to directions of Chapter 4 of the Revised Code, entitled, "Of the passing and publication of Laws and of Journals," I have collated with and corrected by the original rolls now in this office, and caused to be published this edition of the Laws of the State of Delaware, passed by the General Assembly at the regular biennial session, commenced on Tuesday, the fifth day of January, A. D. 1869.

The words between brackets throughout the work are inserted to complete the sense or correct errors in the original rolls. Words and sentences noted with asterisks are printed as they appear on the rolls.

CUSTIS W. WRIGHT.

Secretary of State.

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